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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

PART 1 (Pages 1–1015)

Architectural and Transportation Barriers Compliance Board
Civil Aeronautics Board
Department of Transportation
Interstate Commerce Commission
National Transportation Safety Board
Panama Canal Commission
Washington Metropolitan Area Transit Authority

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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

FRIDAY, FEBRUARY 26, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m. in room 1318, Everett McKinley Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Kasten, Chiles, Eagleton, and Hatfield; also present Senator Stevens.

DEPARTMENT OF TRANSPORTATION

U.S. COAST GUARD

STATEMENT OF ANDREW L. LEWIS, JR., SECRETARY OF TRANSPORTATION

ACCOMPANIED BY:

ADM. JOHN B. HAYES, COMMANDANT
REAR ADM. PAUL A. YOST, CHIEF OF STAFF
DONALD A. DERMAN, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS, DEPARTMENT OF TRANSPORTATION

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

Good morning, gentlemen. We are very pleased to have you with us today at our request to review your fiscal 1982 plans for the Coast Guard. As you know, the committee staff has been working with your staff to help determine the impact of your fiscal 1982 program and to see if we can make some improvements in the program reductions that you proposed last January. The reductions created a shock wave reaction in many parts of this Nation, particularly in coastal areas.

I might start out by noting that we find it disturbing, given the language in both the House and the Senate reports outlining the need for a strong Coast Guard and the obvious support Congress has shown in the past in giving the largest increase of any transportation agency to the Coast Guard in this budget just passed last December, that such a large number of reductions and closures would be made across the country without prior consultation with those of us on the committee or any other Members of Congress, as far as I know.

The outcome, as one might have expected, is that there were a number of concerns raised in Congress about the proposal. We have asked you to review your proposal and develop a revised plan which would conform with the three general outlines that we have suggested. The plan would: First, address the many serious concerns raised by Members of Congress regarding the programmatic reductions which were announced suddenly on January 21; second, envision a total supplemental appropriation not to exceed $46 million, not including pay costs; and third, to encompass the program supplementals already proposed in the budget.

One of the primary purposes of this hearing, therefore, is to give you the opportunity to present your response to our requests.

I would like to ask Senator Chiles for any remarks he might have at this point in time.

LAW ENFORCEMENT PROBLEMS IN FLORIDA

Senator CHILES. Thank you, Mr. Chairman.

I would like to also welcome Secretary Lewis and Admiral Hayes, the Commandant of the Coast Guard, to these hearings this morning. We are delighted to have you with us.

Last week I had the opportunity and pleasure to inspect four Florida ports with Admiral Hayes and Admiral Stabile and other Coast Guard officials. The prospect that one of these ports would soon be selected for upgrading by the Coast Guard I believe is very important. This will permit the Coast Guard to home port more resources in the area where they will be of direct assistance in our war against the foreign drug invasion.

The Vice President also visited Florida last week and brought the word that the administration recognized the serious drug, illegal immigrant, and crime problems that we have in Florida. And the Vice President made the commitment for immediate and significant increases in Coast Guard resources for Florida to help interdict drugs being smuggled into the area.

That is good news to all of us, and we certainly look forward to seeing results from that commitment.

Mr. Secretary, as you know, Admiral Hayes' tour is coming to an end soon and it is early to start farewell remarks, but I want to tell you of the high regard that I find that Coast Guard personnel, certainly all law enforcement officials in the State of Florida—and that is from the local police, sheriffs, and others—have for Admiral Hayes and the job that the Coast Guard has been doing in trying to interdict drugs with the meager resources they have had at their command to do their job in the State of Florida.

We are pleased to have you with us. We are here because of concerns that many of us have for the Coast Guard's budget proposal for the capital program in 1983. While Congress decided to upgrade the Coast Guard's capital program, the administration seems intent on fighting and attempting to derail that congressional policy decision.

The shortfall of the operating program is of great concern to me and I think to many in the Congress, and I look forward to discussing that as we get further in the hearing, Mr. Chairman.

IMPACT OF COAST GUARD REDUCTIONS ON ALASKA

Senator ANDREWS. Thank you, Senator.

Senator Stevens, do you have an opening statement?

Senator STEVENS. No, Mr. Chairman. I am here to ascertain the impact of the cut that the Congress imposed, the across-the-board cut, on the agency and, in particular to find out how that will have an impact on the readiness of the Coast Guard to perform its missions in areas such as my State.

I am happy to have the opportunity to be here.

Senator ANDREWS. Thank you, Senator.

Senator Eagleton tells me in lieu of an opening statement he would like to ask one quick question before you begin your opening statement.

Senator Eagleton?

SECOND DISTRICT OFFICE

Senator EAGLETON. Thank you, Mr. Chairman.

Mr. Secretary, this pertains to the Coast Guard's district No. 2 office in St. Louis, Mo. I am delighted that the Department has reconsidered and will now support a supplemental appropriation for the continued operation of the district 2 office. That is very, very important to my State and many other States along the Mississippi River and the barge industry and the like.

Question: Can you give us any assurance that the continuance of this office is more than a temporary expedient, rather, a more positive assurance that it is good for not only this year only but for the foreseeable and predictable future for years to come?

Secretary LEWIS. Senator, this was not done in expediency. What we were trying to do originally was to take the cuts that were given us by the Congress, and signed by the President, and fit them to those programs in the Coast Guard where it seemed most logical to do so. It became clear that a number of these cuts were cutting deeper than we liked and, at your insistence and Senator Andrews' and Senator Danforth's, we obviously looked at the situation throughout the country and specifically the ones in your State.

This was not done on an expedient basis. It was done because we think that, in terms of fulfilling the mission of the Coast Guard, that facility should remain open.

Senator EAGLETON. But you support the supplemental for that office and hope that that office will remain open in the future?

Secretary LEWIS. Yes, sir.

Senator EAGLETON. Thank you very much.

Senator ANDREWS. I would like to assure the Senator from Missouri that that particular office services my State as well. We have few Coast Guard facilities in North Dakota, but the ones that are there are very important.

Senator Eagleton and I have discussed the importance of keeping the district 2 office open and, since that office is located in St. Louis, as you might imagine—and as you well know, Mr. Secretary—he has been most influential in achieving what we have accomplished today.

Senator Eagleton has shared with me a letter he received from Kenneth A. Anderson, port administrator for the city of St. Louis. The letter clearly points out the importance of this office to the inland waterway system, has been very helpful to this committee, and thus I would like it to be included at this point as part of the hearing record.

[The letter follows:]

LETTER FROM KENNETH A. ANDERSON, PORT ADMINISTRATOR, PORT AUTHORITY, ST. LOUIS, MO.

FEBRUARY, 23, 1982.

The Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: As you are aware of the fact that the Commandant of the Coast Guard has called for a plan of action for the closing of the second Coast Guard district office in St. Louis, I would like to state my opposition to this proposed closure.

The second Coast Guard district embraces a 22-State area and is the only district attuned to dealing with the inland water system. The delegation of second district responsibilities to other district offices would not be in the best interest of the users of the shallow-draft inland waterways. The proper placement of aids to navigation, licensing, and marine safety needs of the inland system are unique and readily distinguishable from those of deep-draft systems and ports. One must question the capacity of the Cleveland office, for example, to handle an additional 7,000 vessels a year for licensing, inspection, and documentation. Therefore, the inland system requires the type of expertise represented by the second district office.

It is my opinion that if the responsibilities of the second district office are delegated to another district, the inland system would suffer. I further believe that this proposed closure would not result in the net savings of approximately $6.5 million as has been suggested.

As previously stated I am strongly opposed to the concept of closing the second district office and request your support in retaining this office in St. Louis.

Sincerely,

KENNETH A. ANDERSON.

PREPARED STATEMENT

Senator ANDREWS. Mr. Secretary, I think it would be well for us to turn to you at this time for your statement. I know there are other issues we have to discuss here today, but most notably the committee's concern is over your acquisition, construction, and improvements funding.

But before we go into that I would like you to proceed with your statement, and then we can get into the questions.

Secretary LEWIS. Thank you, Mr. Chairman. We have submitted a joint statement by the Commandant, Jack Hayes, and me. We would appreciate it if you would make that part of the record, and I will spare you the reading of the statement. Would that be agreeable with you, Mr. Chairman?

Senator ANDREWS. That would be fine.

[The statement follows:]

JOINT STATEMENT OF SECRETARY OF TRANSPORTATION ANDREW L. LEWIS, JR., AND ADM. JOHN B. HAYES, COMMANDANT, U.S. COAST GUARD

Mr. Chairman and Members of the Committee, I am here this morning with Admiral John B. Hayes, Commandant of the Coast Guard; Assistant Secretary for Budget and Programs Donald A. Derman; and the Commandant's Chief of Staff Rear Admiral Paul A. Yost.

We appreciate the opportunity to appear before you to discuss the actions the Coast Guard is taking to operate effectively within the funding levels appropriated by Congress. When you scheduled this hearing, Mr. Chairman, you mentioned that you wished to discuss certain aspects of the Coast Guard's FY 1982 funding; specifically, the programmatic reductions that the Coast Guard plans for 1982, the FY 1982 appropriation in the Department of Defense Appropriation Act for Coast Guard capital expenditures, and the supplementals that may be required so that the Coast Guard can complete this fiscal year with sufficient sources to fulfill its responsibilities. I believe the Coast Guard's funding plans are supportive of the President's goals to reduce the size of the Federal Government while protecting operational capabilities necessary to continue the Coast Guard's historic role as a seagoing law enforcement and lifesaving service.

There has been considerable interest in the programmatic reductions which are scheduled for this fiscal year. A list of possible reductions was originally compiled which included a large number of functions and units as candidates for deletion or reduction. By selecting certain items from this list, we estimate we can realize about $31 million in savings in FY 1982. A large portion of these estimated savings (about $19 million) are proposed to improve efficiency through better management. The remainder can be characterized as belt-tightening with minimal operational effects.

Attached to this statement is detailed information on the items comprising the estimated savings in FY 1982. These savings result from decommissioning three vessels, retirement of three patrol aircraft, and the consolidation and streamlining of certain functions. The $31 million in estimated savings does not include savings from closure or reduction of any air stations, rescue stations, or district offices or from decommissioning seven other cutters and two other C-130 aircraft previously mentioned as candidates for reduction.

As to the Coast Guard's AC&I plans, the Coast Guard has available for obligation in FY 1982 a total of $767 million. Of this, $300 million was provided in the 1982 DOD Appropriation Act for Coast Guard use, $384 million in the 1982 DOT Appropriation Act, and carryover or recovery of $83 million from 1981 makes up the remainder. To ensure an orderly obligation schedule, a two-year plan has been devised that, with an additional $19 million requested for 1983 for administrative and survey and design costs, will allow the Coast Guard to proceed with capital investments in an orderly and efficient manner. The Coast Guard plans to obligate $405 million in FY 1982 and $358 million in FY 1983, with a small carryover into FY 1984.

This obligation plan will allow us to comply with the Congressional guidance that $175 million of the Transportation appropriation be used for assets that will contribute to the drug interdiction program, and that the $300 million in the Defense appropriation be used for augmenting the Coast Guard's defense capability and other Coast Guard activities.

The program levels for the two years will permit the Coast Guard to proceed with procurement of cutters in the new 270-foot Bear class, procurement of new helicopters, and procurement of the new Falcon jet aircraft. In addition, the Coast Guard is beginning the mid-life upgrading of 210-foot cutters and one 378-foot cutter and is providing for new construction and improvements of the shore plant. Coast Guard capabilities in law enforcement will be significantly improved with the procurement of three new high performance surface craft. These vessels will bolster drug interdiction activities in the Caribbean.

Coast Guard will also complete its planned replacement of motor surfboats, currently being used as both lifeboats and as boarding craft aboard larger cutters, with a new fleet of rigid hull inflatables that will improve the efficiency and safety with which drug and alien interdiction activities are conducted.

Capital procurements and improvements require long lead-time for design, engineering, and procurement. We feel that the plans I have described reflect these considerations and will result in meaningful improvements and acquisitions.

The Coast Guard will require supplemental operating appropriations for pay increases, and we are also requesting a $30.5 million programmatic supplemental, $25 million of which is to offset the increased cost of fuel and communications and the cost of legislatively mandated benefits such as career sea pay. The remaining $5.5 million of this supplemental will go toward maintenance and fuel costs to conduct Haitian immigrant interdiction operations while continuing law enforcement efforts against drugs in the Seventh District.

Before the Congress at this time is a proposal to add $46 million to Coast Guard Operating Expenses in FY 1982 for items unrelated to the supplementals that the Administration has proposed in the Budget. The $31 million in estimated savings I have discussed can substitute for a part of that $46 million, leaving approximately $15 million to be addressed.

This concludes our statement; we would be pleased to answer questions you may have.

OVERVIEW

Secretary LEWIS. Then I would just like to make a few brief additional comments. First of all, as Senator Chiles indicated, Jack Hayes will be retiring as Commandant of the Coast Guard, and I share your feeling about the very competent manner in which he has operated in this position.

As a matter of fact, I asked him to stay on for an additional year, particularly because of the very trying period we are going through with the Coast Guard with the budget cuts and trying to maintain the services that are required. Jack determined he would like to retire to Alaska and therefore would not continue.

But we are going to miss him in the Department of Transportation. He has done an outstanding job.

In very simple terms, what we have tried to do is to comply with your request, Mr. Chairman, to look at proposed programmatic reductions in the Coast Guard for 1982, and determine, in a second review, which of these programs make sense. We are here today with a detailed list which I believe has been submitted to the committee. We released it to the press just prior to this hearing. It indicates, in essence, that we can justify, in terms of solid management savings, about $31 million, but that about 15.5 million dollars' worth of programs should remain in the budget. We can document that in detail during the question and answer period.

Essentially what we are saying is that we would no longer consider for program reductions the closing of rescue stations, or a reduction in rescue stations, closing of air stations, closing district headquarters, the decommissioning of the *Mackinaw*, or the very extensive vessel decommissionings originally recommended.

The costs to not do this total an additional requirement of $15.5 million. We are also requesting—and have submitted as part of the overall package coming from the administration—the need for $78 million for pay increases and about $30.5 million for other supplementals, including $25 million to offset the cost of fuel, career sea pay, and military allowances, and $5.5 million to fund costs incident to Haitian interdiction.

I would close my statement here, and conclude by saying that we appreciate the fact that you have questioned the need for these cuts.

In the second review, we concur with many of the recommendations that have been made by this committee.

PROPOSED RESTORATIONS

Senator ANDREWS. Well, Mr. Secretary, I appreciate that statement, and you are giving us your assurance that the plan you have outlined this morning will enable the Coast Guard to properly and faithfully meet the essential requirements of its responsibilities, is that not correct?

Secretary LEWIS. That is correct.

Senator ANDREWS. And I also understand that you have in your list assured this committee and the Congress that no search and rescue stations are any longer being considered for closure, nor are any search and rescue stations being considered for reduction.

Secretary LEWIS. That is correct.

Senator ANDREWS. So all of these proposed cuts in search and rescue stations have now been, shall we say, made inoperable.

Secretary LEWIS. That is correct.

Senator ANDREWS. Also, the ships——

Secretary LEWIS. All we need now is the money.

Senator ANDREWS. Well, that is why you are here. But what we want to do is define the ground rules for what we are doing, because it is hard to explain why the Coast Guard is shutting down search and rescue stations and cutting back the maintenance of its ships when they are so badly needed. And the vessels that were mentioned for decommissioning, as I understood it, were the *Mackinaw, Citrus, Clover, Ingham, Evergreen, Bibb,* and *Walnut.* These are no longer considered for decommissioning. Is that correct?

Secretary LEWIS. That is correct.

Senator ANDREWS. And the second Coast Guard district that my colleague from Missouri pointed out was no longer considered for closure is not being considered for closure, nor is the 11th Coast Guard district.

Secretary LEWIS. That is correct.

Senator ANDREWS. Nor are the air stations at Savannah, Ga., Puerto Rico, or Los Angeles, Calif.

Secretary LEWIS. Correct.

Senator ANDREWS. And the helicopters at the Coast Guard air station in Astoria, Oreg., are no longer considered for substitution.

Secretary LEWIS. Correct.

Senator ANDREWS. I ask that because of the intense interest of Senator Hatfield who happens to be the chairman of this overall committee. And you can understand why he wanted me to ask that.

Is there any other action you would recommend to this committee that would be required to enable the Coast Guard to fulfil its mission?

Secretary LEWIS. We feel that with the restoration of these proposed cuts that we can adequately fulfill our mission. Obviously, you can always ask the question, "Should the mission of the Coast Guard be increased?" We are looking at that in terms of our roles and missions study. We were asked the other day in the House, what would we need if we were really to do an effective job in drug interdiction.

These kinds of questions can always be raised, but in terms of our current operation, current mission, we feel that with a small supplemental increase we can adequately staff the Coast Guard and perform our mission.

Senator ANDREWS. In your opinion, Mr. Secretary, would the President veto a recommendation that exceeded the guidelines we have talked about?

Secretary LEWIS. I have reviewed these recommendations and if we can reach an accommodation on this additional $15.5 million, I have been informed it will not be vetoed.

Senator ANDREWS. On the question of timing, Mr. Secretary, assuming the Congress will appropriate the $46 million in the regular supplemental bill, is it correct that you would have the Coast Guard defer any further action on these items, many of which I have mentioned, which are now listed for restoration, until such time as Congress has acted to provide the funds.

Secretary LEWIS. The Commandant of the Coast Guard has already taken that action. So to a certain degree we are hanging out there at this point.

Do you want to comment further on that?

Admiral Hayes: No, sir; that is correct, Mr. Chairman. I have already broadcast that decision to my commanders, that we will terminate any further actions with respect to those items that have been discussed.

Senator ANDREWS. So the headlines that we all read in January have now become inoperable?

Admiral Hayes: To a certain extent, Mr. Chairman.

Senator ANDREWS. Well, to the extent that these stations, vessels and the rest just named have been removed from possible closure or reduction.

Secretary LEWIS. That is correct. And the other $31 million we think are valid management decisions to make the Coast Guard equally or more efficient than it was previous to the reductions.

ROLES AND MISSIONS STUDY

Senator ANDREWS. Now, the congressionally mandated roles and missions study has not yet been submitted to Congress, but it is nearly due. And I would assume, Admiral, that it must be in its final stages. Have you looked at that study, Admiral Hayes, to determine if it suggests any other types of reductions beyond those we have discussed today?

In other words, we do not want to be surprised a month or two down the line.

Admiral HAYES. We have indeed, Mr. Chairman. The actions that I have taken, for example, in some of our regulatory programs correspond very closely to some of the recommendations that are coming out of the roles and missions study. So it is our view that indeed we are paralleling by our management actions what the Secretary has discussed—those recommendations that will come out of the study.

Senator ANDREWS. So that study will be totally compatible with the recommendations that you have outlined to this committee and to the Nation this morning?

Admiral HAYES. As far as we can see at this moment. Of course, it is not quite completed, Mr. Chairman, but it is very close to it.

Secretary LEWIS. We anticipate having this completed by March 31. We are under considerable pressure, but we are not going to let it lag.

EXAMPLES OF REDUCTIONS TO BE TAKEN

Senator ANDREWS. It is my understanding that many of the reductions which are contemplated would probably have been taken anyway. Please give me some examples of these reductions.

Admiral HAYES. Yes, sir. The reduction in some of our staff, such as human relations counselors, the public affairs support in the Coast Guard. With the advent of improvements in our reenlistment situation in the Coast Guard, we are able to reduce our recruiting effort. I would cite the centralization of the documentation function and some of the agreements we have already signed with the American Bureau of Shipping and National Cargo Bureau as management improvements that we were certainly going to make in any event.

Senator ANDREWS. What do you estimate that reducing these items will save?

Secretary LEWIS. About $31 million.

Senator ANDREWS. How will these reductions make the service more efficient?

Secretary LEWIS. As the Commandant has described, and we have some other examples: Because of the retention rate we really have less pressure on us to keep the Academy quite as full as it has been in the past.

There is another example; it is the kind of item that is indicative of the very close scrutiny that the Commandant has given these matters, such as the concert band that plays in New London, Conn., with inadequate funding to have it go anyplace else in the country. Minor in terms of total dollars, but it is indicative of the very detailed manner in which the Coast Guard has reviewed all of their expenditures.

Recruit training at Alameda is another very good example.

Senator ANDREWS. So the cuts affect the fat rather than the muscle and the bone of the Coast Guard?

Secretary LEWIS. That is exactly right.

Senator ANDREWS. Thank you, Mr. Secretary and Admiral.

Let me turn for a moment to Senator Chiles for questions.

SUPPLEMENTAL FUNDING NEEDS

Senator CHILES. Yes, sir. I understand the total supplemental operating expense requirements, assuming no absorption, for 1982 are close to $200 million. And this includes the full $94 million cost of the military and civilian pay raises for this year that are already enacted into law.

With the level of supplemental funding that is proposed for 1982 and the additional amount that will be proposed, should we start bracing ourselves for another round of closing in the months ahead?

Secretary LEWIS. I have some question on the figures you raised. The figures that we have are somewhat different from that. Do you want to address that, Don?

Mr. DERMAN. It is our understanding, Senator Chiles, that the shortfall, including military pay and the $30.5 million requirement that is currently before the Congress in the supplemental and the $46 million reduction in operating expenses which was part of the 1982 appropriation action, totals $164 million of a perceived need.

Of that, $108 million would be accounted for by the pay supplemental the administration will be coming forward with as part of a consolidated pay supplemental appropriation Governmentwide, and the $30.5 million supplemental that is currently before the Congress. That is $108 million. That would leave approximately $56.5 million, of which $31.1 million Secretary Lewis just mentioned we are going to achieve by virtue of management savings.

So, therefore, the difference is approximately $25 million. Given an analysis that is currently underway with respect to pay absorption, we believe that the $15.5 million that we are focusing on this morning would be sufficient to meet the 1982 restorations that——

Senator CHILES. Do you think those management savings can be achieved without having further closings?

Secretary LEWIS. That is correct. What we are essentially saying, Senator, is that if we take the $108 million, which was the pay increase and the two other supplementals we mentioned, fuel and Haitian interdiction, and add the $15 or $15.5 million, we are really talking about total additional needs of $124 million.

Senator CHILES. That is all the questions I have.

[CLERK'S NOTE.—The following table, previously provided to Senator Chiles by the Coast Guard shows an $87 million difference between estimated and requested requirements:]

COAST GUARD FISCAL YEAR 1982 SUPPLEMENTAL

[In millions of dollars]

	Potential Coast Guard needs	President's request
Account/Program:		
Operating expenses:		
Increased program and fuel costs (including military entitlements)	55	31
Military and civilian pay raise	94	77
Prevent base closings	46	[1] 16
Civilian mandated positions	8	
Reserve training: Pay raise	5	1
Research, development, test, and evaluation: Pay raise and program costs	4	
Total	212	125

[1] Anticipate that Secretary Lewis will announce support for this additional amount at Friday's hearings.

IMPACT OF REDUCTIONS ON OREGON

Senator ANDREWS. Thank you, Senator.

Senator Hatfield, the chairman of the committee, is here and he would like to make a few observations. Senator Hatfield.

Chairman HATFIELD. Mr. Chairman, I merely wanted to thank the Secretary for his excellent cooperation, as always, in working out some of these difficulties that we had, and I am very pleased to support the Secretary in his supplemental request. I think it meets certainly the major problems that most of us have had.

I would like to just merely ask one question. Mr. Secretary, as I understand, we have had increases, a carryover in the matter of fiscal year 1982 budget relating to capital outlay. And yet I note that there is an announcement that was made to decommission a large cutter in southern Oregon at Coos Bay and one in northern California by Eureka. That area is a rather substantial part of geography of the west coast not to be covered by a cutter. Have you since changed your mind and decided against decommissioning these two cutters?

Secretary LEWIS. I think you are referring to the *Citrus* and the *Clover*.

Chairman HATFIELD. Yes.

Secretary LEWIS. We no longer have them scheduled to be decommissioned.

Chairman HATFIELD. I see.

Secretary LEWIS. They may be relocated, but they are not going to be decommissioned.

Chairman HATFIELD. But does that mean that this same piece of geography—a substantial amount of coastal area that relates to the enforcement of the 200-mile limit, search and rescue, and so forth—would be covered in other ways?

Secretary LEWIS. Yes. As we move our—deploy our assets to various parts of the country, depending on the needs at the particular time, we are not doing it in a manner that will jeopardize the area that is either being reduced or increased. We are watching that very carefully.

Chairman HATFIELD. Well, I merely want again to express my deep appreciation for the leadership that you have given to solving this problem we had, and to Admiral Hayes as well. I do not know of any agency of the Federal Government that I think has a better cost-benefit ratio to the money invested and for the amount of service rendered—in terms of protecting and saving of lives of people, the enforcement of the fishing problems or fishing policies of this country and the drug enforcement—than the Coast Guard.

I am just very proud to be an advocate and supporter of the Coast Guard agency and certainly of the Department's supplemental request here, which I think is realistic and is achievable. I am very grateful for your support on this.

Secretary LEWIS. Thank you very much, sir.

Chairman HATFIELD. Thank you, Mr. Chairman.

Senator ANDREWS. Thank you, Mr. Chairman. Senator Stevens?

$300 MILLION FOR A.C. & I. ACCOUNT

Senator STEVENS. Thank you very much.

Let me be provincial first. It is my understanding that in reviewing the requirements of the Kodiak Coast Guard station that the decision has been made to keep the large helicopter and one of the C–130's there that were scheduled for redeployment. Is that right?

Secretary LEWIS. That is correct.

Senator STEVENS. Thank you.

I want to compliment you, Mr. Secretary and Commandant Hayes, for having gone back to the mat, and it looks like you have won the second round—partially at least. I am pleased to hear some of these changes that were announced this morning.

However, I am chairman of the Defense Subcommittee and last year we enacted a $14 billion increase in defense. Recognizing the Coast Guard's role in wartime—they do become part of the defense establishment in time of war—we allocated $300 million to the Coast Guard A.C. & I. account. We did that on the basis of a study that had been made in the House by the Merchant Marine Committee where they specifically pointed out the problem of the Coast Guard in upgrading its resources and maintaining its equipment to meet a wartime responsibility.

Now, I want to know, Mr. Secretary, if you are ready to go back to the mat for us to get the $300 million made available to the Coast Guard. What can we expect? I view that as military readiness appropriations, because defense appropriations were not part of the moneys allocated by the subcommittee but by the full committee. And I am disturbed to hear that there appears to be a reluctance to release that money to accomplish the military goals that we established for the defense budget.

I think it is very small. As a matter of fact, it should have been much larger. If you look at the overall role of the Coast Guard in a time of war, to give them $300 million out of $14 billion was not very much.

Secretary LEWIS. Senator, Mr. Derman will explain our accounting method.

Mr. DERMAN. Senator Stevens, first, the fact of the matter is that the $300 million from the DOD appropriation bill has in fact been transferred to the Department of Transportation. The $384 million A.C. & I. appropriation that was part of the DOT appropriation bill, with the carryover from 1981, makes a total of $767 million, I believe, that has been apportioned to the Coast Guard for 1982 obligations.

Now, we have looked at it from the standpoint of the current fiscal climate, and the obligation pattern over the 2 years, 1982 and 1983. We believe that the full amount will allow the Coast Guard to fund their highest priority projects with due regard to the congressional guidance that was established not only in the DOD appropriation, but as well in the DOT appropriation.

Senator STEVENS. Are you telling me it will offset the 1983 level? I am expecting to do the same thing in 1983.

Senator CHILES. That is right.

Mr. DERMAN. I think the fact of the matter is a 1983 budget authority request for A.C. & I. of $19 million presumes the large carryover from 1982 in obligations. I think that is correct.

Senator STEVENS. Then in effect we have done nothing by committing a portion of the defense budget for 1982 to this agency. We just relieved the other function, the civilian function of DOT, by the extent of $300 million. Is that right?

Mr. DERMAN. I believe that the 2-year plan that the budget reflects still allows the Coast Guard to acquire hardware in 1982 and 1983 that goes toward meeting the increased defense capability.

Senator STEVENS. You intended to do that without regard to the $300 million I added to the budget last year, did you not?

Mr. DERMAN. Yes, sir.

Senator STEVENS. So that in effect you are just accountingwise crediting the $300 million that came from the defense budget to the proposed 1983 budget on the civilian side, and we have done nothing to upgrade the defense readiness of the Coast Guard.

Mr. DERMAN. I would not go so far as to say that we have done nothing to upgrade the defense capability of the Coast Guard. But the fact is that we use the $300 million along with the 1982 DOT appropriation and viewed it as a 2-year spending plan.

CONDITION OF COAST GUARD CAPITAL PLANT

Senator STEVENS. Senator Chiles wants to get into it. But I want you to know that is not satisfactory as far as I am concerned, because I intend to give you another $300 million for 1983. And we are going to find some way to get the Coast Guard into part of the defense readiness concept, either that or we will give it to the Navy Department and tell them to spend it for the Coast Guard and give you the vessels.

These vessels are going to hell. They are costing us more and more to maintain, and unless you recognize what you are getting into in not providing for and upgrading these vessels we are going to have the same condition with the Coast Guard as we have with the Navy before too long. We are facing massive expenditures for the Navy because of the inability of Congress and the administration to recognize what was going on with the deterioration of the Navy.

Senator ANDREWS. Senator, let me point out just one thing that Senator Stevens has touched on. It is my opinion, and I think the opinion of the entire subcommittee, that when you come up with a fiscal 1983 capital request for $19 million—a fantastically and idiotically small figure compared to the $684 million we provided in fiscal 1982—the only way Congress can interpret this is that you are spreading this appropriation out over many years and totally defying the congressional intent to have a real increase in the capital assets of the Coast Guard in fiscal 1982.

This is there because of the drug interdiction problems. It is there because of the problems we have in the Caribbean. It is there because of the search and rescue problems we have around the coastline of this country. It is there because we have got a bunch of rust buckets that you, Admiral, said you were going to shut down. Now you are putting them back in, but they are not nearly as good, even put back in, as new vessels would be in doing what we need to do.

And if this committee comes up with a $600 million figure, it is not that we are throwing money around; it is because we think it has to be done as an investment in the future of this country. And when you come up and say, well, we are spreading it out, I think you are bordering on needing a deferral. Now, you have not sent up a request for a deferral so we can turn it down and tell you that is not the way we want it done.

That is the concern the committee has. I share the feeling of Senator Stevens and I am sure Senator Chiles is going to back me up on it, too.

DEFERRAL OF FUNDS

Senator CHILES. Mr. Chairman, I think what the Senator from Alaska has been saying and what you have been saying is so true. In fact, I have a copy of a letter from Mr. Derman to Admiral Hayes directing the Coast Guard to show $300 million of the $684 million as an unobligated balance at the end of 1982 and to send up a deferral proposal to Congress.

[The letter follows:]

LETTER FROM DONALD A. DERMAN, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS, DEPARTMENT OF TRANSPORTATION

JANUARY 12, 1982.

COMMANDANT, U.S. COAST GUARD: The Office of management and Budget has disapproved our proposal for utilization of the $300 million DOD/A.C. & I. appropriation. Agreement has been reached between OMB and DOD to transfer the budget authority to DOT in fiscal year 1982, where it will be proposed for deferral to be applied to our fiscal year 1983 A.C. & I. budget request.

This requires that Coast Guard prepare a reapportionment schedule and deferral message. The Coast Guard's A.C. & I. budget schedules for fiscal year 1982 will reflect the transfer of budget authority and a $300 million increase to unobligated balance at the end of the fiscal year 1982. The fiscal year 1983 column will be unchanged except that fiscal year 1983 unobligated balance at the beginning of the year will be increased by $300 million and fiscal year 1983 budget authority will be reduced by a like amount. There will be no change in either program content or outlays for either year as a result of this decision. We have already called these changes in to OMB.

As you have been previously advised, OMB has agreed to increase your fiscal year 1982 program supplemental by $5.5 million to fund the incremental cost of Haitian operations through September 30, 1982.

Finally, as a part of a Governmentwide measure to balance post-1984 outlays against anticipated revenues, OMB has straight lined most DOT 1985–87 estimates at the previously agreed to levels for 1984. Virtually all DOT administrations and those of other Departments were affected by this decision. For the Coast Guard, an exception was made only to the extent of providing for future military pay increases. Your revised budget authority estimates are:

[In millions of dollars]

Fiscal year 1985	2,502
Fiscal year 1986	2,581
Fiscal year 1987	2,658

Senator CHILES. When the Department then discovered that in section 406 of the transportation appropriation bill such a course of action was prevented, then the strategy apparently changed. That section stated that funds proposed for deferral must be made available unless and until the Congress approved the deferral.

That language we had put in there. It seems like then when you discovered section 406, Mr. Derman, your strategy changed. And so you just sort of are stonewalling now and saying that you cannot spend the money. Now, I do not understand your statement that they cannot spend the money now, and we are asking GAO to look at that as to whether they could.

When the Coast Guard themselves started off with a request of $887 million for 1982, and then the Coast Guard, Mr. Chairman, has asked for $670 million for 1983, and they get $19 million you know that's a big drop. Of course, the request to OMB, even from the Department, was $396 million.

Senator STEVENS. If you will yield, I think that is the problem. I think we may be talking to the wrong people.

Senator CHILES. I think we might be, too. But I think what we have to do is, as you say, Mr. Chairman, get this out and before us. It seems to me that when Congress expresses itself as strongly as it did last year, first in the $175 million additional dollars that we added from this subcommittee for capital improvements for drug interdiction, and then through the efforts of Senator Stevens and all of us working in the Defense Appropriation Committee we tacked on another $300 million. The Congress has taken a strong position. I have never seen the House take an appropriation like that before.

So it shows the support on both sides of the aisle. Any time the Senate has ever put something in one bill to be transferred to another, the House has always turned it down. This time they did not. And here we took money from defense appropriation and put it to the Coast Guard, and the sentiment was strong on both sides of the Capitol to do that.

And then to find that that money is not going to be utilized and is going to be deferred is just the worst sort of reversal of congressional intent that I have seen in a long while.

IMPACT OF INCREASED COAST GUARD ACTIVITY IN FLORIDA

Senator STEVENS. Let me change the subject, if I may, because I have my friend from Florida on my right, which is a unique situation. We are greatest of friends and I want to ask you a question with him here.

The Vice President announced there is going to be a significant increase in Coast Guard forces and manpower in his State of Florida, but there is not going to be an overall increase in law enforcement funding. I happen to represent the State that has half the coastline of the United States and has two-thirds of the protein base in terms of fisheries in the whole United States.

I am sort of worried that if we are going to have this fantastic increase off Florida, that there is going to have to be a reduction somewhere, and I want to know where it is going to come from.

Secretary LEWIS. Actually this is a plan that the Coast Guard has had under consideration for a considerable period. What we are going to do is relocate two cutters to the seventh district, which would really be a matter of reducing transit time to get to other areas. We are going to put one more medium endurance cutter on patrol for drug interdiction, which will be an increase of about 33 percent. This means we are going to go from three to four cutters on patrol. We feel we can do this because we do have some new ships coming into action, and we can do this without significantly hurting any services anywhere in this country.

Senator STEVENS. I really want to ask that and ask the Commandant to respond to that too, Mr. Secretary. I do not see how, with the function limits you have on your appropriations in terms of law enforcement activities, that you are going to be able to increase the activities so drastically in the Caribbean without impacting fisheries law enforcement.

Now, where are you going to get the money from to augment that function if there is to be expansion off Florida?

Admiral HAYES. You are correct, Senator Stevens. There will be a reduction in Coast Guard fisheries enforcement in the Atlantic in order to effect this increase in drug interdiction to the south.

Senator STEVENS. It is going to be in the Atlantic?

Admiral HAYES. Yes, sir.

Secretary LEWIS. Do you have any coastline in the Atlantic?

Senator STEVENS. No; but I can just hear New England now.

Admiral HAYES. There will be one additional drawdown that the Secretary identified a little while ago, and that is, we will be shifting two buoy tenders that are acting as medium endurance cutters right now from the west coast to the east coast, but those are not currently engaged in fisheries in Alaska.

Senator CHILES. I thank my good friend from Alaska, who is very concerned about this, and I wish he had more reason to be concerned. I would like to say that I think we should be putting more assets in rather than dividing what we have. We are talking about robbing Peter to pay Paul. We have great hopes for what the Vice President told us on February 16 with regard to the administration's strong support for increased Coast Guard funding and the administration's strong interest in fighting the drug war. But when I look and see that part of the things that we are talking about doing in response to the Vice President is to send some buoy tenders out there that are going to take the place of cutters, and that we are going to assign cadets during the summer to serve in the seventh district then I think you get some kind of idea of, again, how thin the Coast Guard resources are.

So obviously, if you are going to really do something the money that has been appropriated must be spent. You cannot say you are going to do it by sending some cadets down there and taking a couple of buoy tenders out there. If you are going to take some real assets down there, then you take them away from somewhere else where they are already stretched too thin.

So you really are talking about the need to increase, I think, the law enforcement resources and activities of the Coast Guard if we are going to do something meaningful about it.

ALLOCATION OF 4-PERCENT CUTBACK

Senator STEVENS. Let me ask one last question, if I may, and I know Senator Kasten is waiting. This concerns the comment that I made at the opening. I had some indication that the 4-percent cutback mandated by the Congress last year in the continuing resolution hit the Coast Guard with an inflexibility in how it allocates the cut among its own activities. Perhaps it forced some of the initial reaction that we read about as far as reducing critical and necessary services such as search and rescue, law enforcement, and other activities.

Has that been worked out now? Do we need to put anything in the supplemental to assure that you have the power to allocate that 4 percent in a manner where the service can best absorb it rather than putting it across the board item by item?

Secretary LEWIS. Do we have that flexibility or not?

Mr. DERMAN. Senator Stevens, I believe that the 4 percent was accomplished on an item-by-item basis, as we understand. For instance, the operating expense appropriation took its major share of that reduction.

Senator STEVENS. It was my understanding that was how it was calculated, but the way it was drafted does not mandate the Coast Guard to apply it to each item. You can apply 4 percent to the Coast Guard, period, and you can take it out of whatever function you want as long as you come up with a total of 4 percent. But you do not have to take 4 percent, necessarily, from search and rescue. You could take 6 percent from something else, from another function.

Now, is that wrong?

Mr. DERMAN. Within the operating expenses appropriation that is correct, but I believe that title IV of our 1982 Appropriation Act in effect did dictate how much would come out of each appropriation.

Secretary LEWIS. But the answer is, if you are asking us whether we would like to have more flexibility to determine how to move the money around, the answer is we would.

Senator STEVENS. That is part of the problem, the inflexibility of the cut.

Secretary LEWIS. The inflexibility of the cut is a large part of the problem. It would be much simpler for us if we can, in the supplemental appropriation, have more flexibility. It would give the Commandant a much easier time in terms of making these cuts.

Senator STEVENS. That does not bother me as much.

Secretary LEWIS. I think that is a point well taken.

Senator ANDREWS. Senator Kasten.

IMPACT OF REDUCTIONS ON THE GREAT LAKES

Senator KASTEN. Thank you, Mr. Chairman.

I would like to add to the comments of the chairman of the full committee, Senator Hatfield, and others in first of all expressing our thanks to the Secretary and also to the Coast Guard, both on the authorizing committee—the Commerce Committee—and here on the appropriating subcommittee. I just wanted to say how much we have appreciated the cooperation and the work that, Mr. Secretary, you and all of your staff have provided.

These are tough times and we are talking about making cuts that maybe none of us want to make, and we are talking about making reallocations that none of us want to make. I share the opinion of the Senator from Alaska that you are doing the best you can with what you have. I think that we have to work together. And Ted, I look forward to working with you.

Mr. Secretary, I think that you are doing a great job, and I would also particularly like to thank you and your staff for the special attention that was paid to the Great Lakes. We had a difficult winter. The ice problems were extreme. I, along with a number of other Great Lakes Senators of both political parties, were concerned about the icebreaker, the *Mackinaw.*

I appreciate and thank you for not decommissioning that vessel and for enabling us to continue to work with it. I also appreciate your consideration on several important stations, Plum Island and Two Rivers, which are now going to remain open.

Senator Chiles asked a question as to how long these decisions would remain effective. Could you respond by saying that these stations now are pretty secure for the immediate future, for the long-range future, or are we going to be forced to go through this drill again next year or the year after?

Secretary LEWIS. Senator, that really depends solely on funding levels. Assuming you approve this supplemental, as does the House, and the President signs a supplemental appropriation, as recommended, obviously we would have the funds. If, then, we continue to fund these items on a yearly basis, and it would be our recommendation they be so funded, they will obviously stay in place.

Senator KASTEN. Well, I appreciate that because I think it is one of the things that causes political and economic dislocation. When a name pops up on the list for closure, everybody scurries to try to do something about it. I would hope that we could kind of stick with what we have and do the best we can with what we have rather than go through another year of uncertainty.

Secretary LEWIS. Senator, that is what we are trying to do, I think you made a very good point. We are not overly pleased with the funding levels for the Coast Guard, nor am I in some other areas of transportation. We have taken about a 25-percent cut. What we are trying to do in these very difficult times of high deficits is to make what contribution we can in terms of the funds available. We are cutting the sails to fit the ship, and we determined after this review that some of the cuts we made were inappropriate, and, therefore, we are coming back for a supplemental. We would much prefer to have more funds than we presently have. We are just trying to operate within the present confines in which we find ourselves.

Senator KASTEN. I do not know, Mr. Secretary, if you are the one to answer this or possibly one of your associates, but there is a marine safety office that is to be closed in Sturgeon Bay. It is my understanding and your documentation here indicates that it is going to be replaced by an inspection office. Is that the right way to interpret this, and could you explain to me what this is going to mean?

Admiral HAYES. Sturgeon Bay's Marine Safety Office will be reduced but not eliminated.

Senator KASTEN. So instead of being a safety office, it will now be classified as an inspection office, is that right?

Admiral HAYES. Marine inspection office, that is correct, sir. In the course of reviewing our entire commercial vessel safety in ports and environmental safety programs, we decided to reduce certain functions. We are backing off substantially in the inspection arena, for example, and as we do that, a number of other marine safety offices, captains of the port, and marine inspection offices around the country will be reduced.

Senator KASTEN. I just want to conclude by saying these are tough times. I think that if any group of people or any department is dealing with these difficulties in a realistic way, your Department is. I agree with Senator Hatfield when he said that your programs are cost efficient and they are making a difference. Clearly in the Great Lakes the Coast Guard is important, and I appreciate very much the cooperation and the fine work that you are doing.

Senator STEVENS. Mr. Chairman, I have to leave. Could you allow me just one area of questions?

Senator ANDREWS. Senator Stevens.

PAY RAISES

Senator STEVENS. I am also on the Government Affairs Committee that worked on this military and civilian pay raise and its impact, and it is my understanding in this figure you are presenting you are carrying the impact of the military civilian pay raises on the Coast Guard somewhere around $76 or $77 million. Is that right?

Mr. DERMAN. $78 million.

Senator STEVENS. $78 million.

Mr. DERMAN. Military, $73.5 million, and I think something around $4.5 million for civilian.

Senator STEVENS. We have an indication that it is between $94 and $96 million. Can you tell me how you got such a low figure for the impact of those pay raises in 1982? In terms of the supplemental we anticipated an increase of somewhere around $94, $95, $96 million in terms of your military and civilian pay raises for this year.

Mr. DERMAN. I am not familiar with those particular numbers, but we would be glad to go back and do another pay-cost analysis to see how the Coast Guard calculated their particular military pay needs.

Secretary LEWIS. What we should do is compare the two figures to make certain that we are——

Senator STEVENS. I would like you to do that. Unless you are anticipating a personnel reduction that we do not know. That is what I am really getting to. Do you anticipate a personnel reduction that we do not know anything about in your pay figures?

Mr. DERMAN. We are not anticipating any personnel reductions other than those that were reflected in the 1983 budget.

Senator STEVENS. I am talking about 1982 now. Is your end strength at the end of 1982 going to be less than what we originally projected for 1982?

Secretary LEWIS. No; it will not be lower than the budgeted level.

Mr. DERMAN. It will be adjusted upward somewhat by virtue of the proposed restorations that we have here, and then——

Senator STEVENS. There should be an increase rather than a decrease.

Secretary LEWIS. That is right.

Senator STEVENS. I would appreciate it if you would check it. Thank you, Mr. Chairman.

CAPITAL IMPROVEMENTS

Senator ANDREWS. Thank you, Senator.

The thing that bothers me about this, Mr. Secretary and Admiral, is that you have done a good job of retrofitting the closures, and some of the day-by-day, month-by-month expenditures, but you totally missed the boat as far as the capital improvements section of the funding bill from last year.

I find it incredible that you are not spending the money we gave you for the ships that the Congress in a bipartisan way determined were so necessary for the future of the Coast Guard. You recognize, as we do, that these ships revert to the Navy in time of war. They are being used right now. We have $600 million there that needs to be spent because we need to upgrade the inventory of ships, that we have to cut operating costs to allow for the drug interdiction, to do all of these other things.

If we were to provide, as Senator Stevens suggests, and the four of us who have been sitting here are all members of his Defense Subcommittee, if we were to provide the Coast Guard with an additional $300 million in A.C. & I. in fiscal 1983, would we then expect that by the end of the 1983 fiscal year you would have obligated the $1 billion from both years. How much would you obligate, Mr. Secretary?

Secretary LEWIS. Do you want to give a budget answer, Don?

OBLIGATION PLANS

Senator ANDREWS. Since you have not obligated the $600 million, I would be interested to see what you do with the next $300 million.

Mr. DERMAN. If one takes a $684 million 1982 program plus $83 million of carryover from 1981 plus an additional $300 million, which is the number that you are talking about for 1983, it would total over the 2-year period something in excess of $1 billion. Using it would depend on the ability to develop an obligation plan to acquire assets in such a way that the money could be efficiently used.

Senator ANDREWS. Well, we would anticipate that what you do is you go out to some shipbuilding firms and say, look, we want to buy *x* number of cutters, and the longer you wait, the longer it takes to bring those ships into inventory where they are drastically needed. The appalling thing to those of us who sit on this side of the table is an administration that is willing to go out and buy MX missiles that it does not even know where it is going to put, has no home for them—like buying a Rolls Royce that you do not have a garage for—yet it refuses to buy cutters that are desperately needed; that funds have been appropriated for; that can be put into use as soon as you get them; and have a combined military-civilian capability. That is why I am asking the question.

How much will you be able to obligate if we go on and give you the other $300 million for this year, which we had anticipated doing? If you have not obligated it, do you intend to send up a rescission?

Mr. DERMAN. We do not believe that a rescission is necessary because all of the money has been apportioned and is available for obligation.

Senator ANDREWS. But you are not obligating it.

Mr. DERMAN. The Coast Guard's best estimate of their obligation plan is that there would be at least $361 million carried over in 1983 from the $684 million in 1982.

Senator CHILES. That is true if you are only going to get $19 million in 1983, isn't it? That is why you are doing that.

Mr. DERMAN. I do not believe that that is actually the case.

Senator CHILES. Well, you know——

Mr. DERMAN. Maybe Admiral Hayes would like to comment on it.

Senator ANDREWS. Maybe Admiral Hayes can tell us why we cannot order cutters when you have the money to order them, if they are as needed as this committee was led to believe they were.

Admiral HAYES. I will try to be as responsive as I can in answering that.

FISCAL YEAR 1982 COAST GUARD A.C. & I. REQUEST

Senator CHILES. Before he responds to that, because it is a little bit touchy for him to respond, and I think he will, but I want to put in the record the development of the 1982 Coast Guard budget. Their request for 1982 totals $887 million and they have a long list of how it was to be spent. Then maybe we can ask him to speak about this list.

Senator ANDREWS. Without objection, that list will be put in the record, and I think it shows the capability that the Coast Guard indicated to us.

[The information follows:]

DEVELOPMENT OF FISCAL YEAR 1982 COAST GUARD BUDGET

[In thousands of dollars]

	OST	OMB	Congress
O.E.:			
Search and rescue	412,740	389,427	369,132
Aids to navigation	378,413	357,039	338,432
Marine safety	225,439	212,705	201,620
Marine environmental protection	120,006	113,227	107,326
Enforcement of laws and treaties	291,631	275,159	260,819
Marine science and polar ice operations	80,810	76,246	72,272
Military readiness	69,584	65,654	62,232
Total, OE	1,578,623	1,489,457	1,411,833
A.C. & I.:			
270′ WMEC procurement	198,500	182,600	176,930
Support—Vessels	8,393	6,058	5,085
Survey and design—Boats and cutters	1,740	940	600
WLB service life extension	19,650	13,880	
CGC EAGLE renovation	5,620	5,620	
Barge for Red River WLR	920	920	
95′ WPB renovation	11,780	11,780	
Polar class shaft and propeller spares	1,850	1,850	
CGC STORIS reengining	10,590		
Vessel collision avoidance system	7,610	2,950	
Buoy boat replacement	6,050	1,550	
COMDAC support facility—PH I	9,560	2,768	3,000
STD simulator replacement	1,130	565	
WYTM/WTGB replacement	31,680		
Dual-draft icebreaker	113,800	113,800	
Construct 3 WLR replacements	9,080		
378′ WHEC—Secure voice capability	1,740		
Polar icebreaker—WAGB—Satellite comms	540		
Cutter mod in support of MEP program	990		
Shipboard computers	1,780		
HU-25A escalation clause funds	34,830	34,830	34,830
Procure SRR helicopters	107,120	107,120	107,120
Support—Aircraft	2,463	1,713	1,373
LRS (HC-130) aircraft renovation program	20,700		
Automatic test equipment for avionics repair	730	730	
HU-25A Sensors—AIREYE integration	12,300	12,300	
Procure HC-130 radar (FLAR)	10,240	5,550	
Procure MRS/SRR flight simulators	1,200		1,800
Procure helicopters FLIR sensors—PH-I	18,020	8,000	
Support—Shore facilities	5,118	3,720	3,280
Survey and design shore construction	8,000	4,400	3,300
Minor A.C. & I—UPH upgrade	4,600	3,000	2,000
SUPRTCEN Kodiak, AK—Pers activities center	15,200	15,200	
Minor A.C. & I.—Shore construction projects	5,800	4,000	2,770
MSO Morgan City, LA—PH I	4,400	3,960	3,000
Petaluma, CA—Classroom building	6,300		
Rockland, ME—Rebuild station—PH II	1,000	1,660	1,660
Public family quarters	12,060	5,200	4,190

DEVELOPMENT OF FISCAL YEAR 1982 COAST GUARD BUDGET—Continued

[In thousands of dollars]

	OST	OMB	Congress
A.C. & I.—Continued			
270′ WMEC—Shore support	2,000	2,000	2,000
MSO Delaware River Basin (Phila., PA)—PH I	14,500	5,874	
Alameda, CA—TRACEN clinic	5,160		
Energy conservation program—Bldg retrofit	1,270	1,270	400
Base Charleston, SC—Blast/paint fac and shops	2,500	2,500	
Academy—McAllister Hall—PH III	1,720	1,720	1,720
SUPRTCEN Kodiak—Auto repair shop rehabilitation	660	660	660
SUPRTCEN NY—UPH rehabilitation	2,500	2,500	2,130
Resident training relocation—PH I	3,240		
RTC Yorktown, VA—Student officer berth	6,900		
Relocate AIRSTA Los Angeles, CA	6,640	6,356	
Restore CCTV Houston—Galveston, TX—VTS	3,240	1,000	1,000
Rebuild Station Sabine, TX building—PH I	1,240	1,240	1,000
RTC Yorktown, VA—EM/DC training building	5,390		
Construct pollution response facility—PH I	2,940	2,940	
Response equipment for hazardous substance spills	430	430	
Open water pollution response equipment	4,910	4,910	
Est Sta Noyo River, Fort Bragg, CA—PH I	860		
SUPCEN NY Logistics SUP Fac—PH III	1,350		
ANFAC Peoria, IL—Update operational facility	990		
SUPRTCEN Kodiak, AK—Admin center	9,960		
SUPRTCEN E. City, NC—Extend and light runway	2,140	2,140	2,140
Relocate gulf strike team facility	1,920		
SUPCEN Brooklyn, NY—Computer acquisition	1,310	1,310	1,300
New personal defense weapon	1,400		
Base Galveston, TX—Replace industrial facility	5,500		
Electronic equipment replacement	6,770	2,000	2,000
CG Air Station E. City, NC—Hangar construction	7,240		
AIRSTA Astoria, OR—Expansion—PH I	2,200		
Station Pensacola, FL—Rebuild	3,290		
Station Humboldt Bay, CA—Waterfront	1,480		
AIRSTA Cape Cod, MA—Medical clinic	2,560		
Group Baltimore, MD—Rebuild multipurpose bldg	3,070		
SUPRTCEN NY—Restore Castle Williams	3,860	1,284	
Expand ADP capability	1,780		
Vessel traffic service radars	4,330		
NY VTS software enhancement	490		
Prince William Sound, AK—VTS comms enhancement	660		
IN SITU sensors system	3,090		
Petaluma, CA—Clinic addition	1,530		
Petaluma, CA—Swimming pool	1,180		
SUPRTCEN Boston, MA—EMS facility			6,000
Support—Aids to navigation	956	809	712
Loran-C improvement plan	15,630	4,200	3,000
Waterways	6,670	4,000	
LAMP II	5,560	3,000	
LIP—Yakutat, AK	10,200		
Spare antenna tower (HQ Loran-C)	700		
Total, A.C. & I	887,000	608,807	375,000

DEVELOPMENT OF FISCAL YEAR 1982 COAST GUARD BUDGET—Continued

[In thousands of dollars]

	OST	OMB	Congress
A.B.:			
IL River Bridge, Peoria, IL—Illinois Central Gulf RR	1,200	1,200	1,200
Gulf Intracoastal Waterway, Houma, LA—Southern Pacific RR	600	600	600
Three Mile Creek, Mobile, AL—Alabama State Docks Department RR	4,900	4,900	4,500
Pt. Pleasant Canal, Pt. Pleasant, NJ—NJ DOT HWY 88	2,500	2,500	2,900
Illinois River, Peoria, IL—Peoria & Pekin Union RR	10,600	8,300	8,300
Total, A.B	19,800	17,500	17,500
R.D.T. & E.:			
Search and rescue	4,386	4,031	3,779
Aids to navigation	7,077	5,713	4,712
Marine safety	19,362	11,189	9,459
Marine environmental protection	16,095	11,820	10,295
Enforcement of laws and treaties	997	746	667
Marine science and ice operations	1,416	1,010	643
Military readiness	667	491	445
Total, R.D.T. & E	50,000	35,000	30,000
Total, Coast Guard	2,535,423	2,150,764	1,834,333

PIE IN THE SKY

Senator ANDREWS. I might point out to the public here that this was not "pie in the sky" that somebody developed, this was based on a capability that we were told the Coast Guard had, and a needs estimate that we were given in terms of the problem areas down in the Florida area with the drug interdiction and the Caribbean problem that we now have. That is why the Congress did it, not that we have any surplus of money. We thought it was a wise investment in the future.

But Admiral, if you could address the issue of how you get this money obligated and why you have not been able to obligate it.

Secretary LEWIS. First may we address the last question?

Senator ANDREWS. Sure, Mr. Secretary.

Mr. DERMAN. Senator Chiles, if I might comment on the $887 million, that was the July 1980 Coast Guard request to the Office of the Secretary of Transportation. Neither Secretary Lewis nor I were at DOT at that time. It was during the time that zero-based budget was the system employed by the administration and OMB in their budget request.

The $887 million was the highest enhancement level that the Coast Guard identified in their budget documents. The current level at that time was $349 million, and the "enhancement level" was $640 million. So that the $887 million was their estimate of the highest enhancement level, a level without budgetary constraints.

Secretary LEWIS. And also $250 million of that was in projects that the Coast Guard themselves had so low in priority they did not consider them urgent in the original budget of $887 million.

ABILITY TO OBLIGATE FUND

Senator CHILES. This was the list the Coast Guard had presented to us. Admiral Hayes testified before our committee on what he could do in regard to interdicting drugs. I think he told us that he could interdict up to 70 percent of the drugs that were coming in, and we asked him at that time what kind of assets he would need to do that.

He outlined a building program that would be necessary over a number of years to do that, and the assets for that went to about $3.5 billion. But based on that and all of the other figures that we had, we decided that it was time to try to add some additional assets to the Coast Guard.

Now Admiral, can you enlighten us a little bit whether now, what you all could obligate?

Admiral HAYES. All right. If we are talking in terms of obligations, which obviously is a term of art in the procurement process, as you know, from the time we get an appropriation, this year, of course, that appropriation arrived in the hands of the Coast Guard fairly recently. It takes time to go through the procurement process. A reason, therefore, that the current obligations that were described by Mr. Derman are going to have to take the time that they are is simply that it takes that long to go through the procurement process and to obligate the funds.

Now, if you are talking about fiscal year 1983, obviously, as is true with any new fiscal year capital plan, as long as we know reasonably well ahead of time the kinds of things we are going to have to do and have our plans in place, then we can be more likely to obligate in that particular fiscal year.

But I think this committee knows that. The reason we have a multiyear appropriation for that capital plant program is because of the procurement process and the length of time it takes to obligate the funds. All I am pointing out is we can begin the process as soon as we know what kind of funding support we are going to have to implement.

Senator ANDREWS. Well, you know what kind of fundings we are talking about—funding support from the appropriations bill that has already been passed and signed by the President, Admiral.

Admiral HAYES. Yes, sir, but at the time that came through, Mr. Chairman, as you know, there had not been a prior authorization nor was there a specific list of things for which that $300 million would be spent. That we had to put together, get approved, and then run it through the procurement process. So all I can tell you is that that kind of planning obviously takes substantial time.

Senator ANDREWS. Could you put that list that you have now developed in the record at this point, Admiral?

Admiral HAYES. I believe that was required by the House side the other day, and yes, sir, we could have that.

Senator ANDREWS. I appreciate that. You have that list. You have your plans made for obligating this money, as I understand it, and you could put that list in the record at this point.

Admiral HAYES. We can provide the list.

[The information follows:]

CAPITAL PLANT FINANCIAL PLAN FOR $300 MILLION PROVIDED BY THE DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1982

Category/Title	Amount
Vessels:	
WMEC acquisition	99,700,000
378′ WHEC rehabilitation	15,000,000
210′ WMEC rehabilitation	7,000,000
GLACIER—Major maintenance	7,270,000
High performance surface craft	18,000,000
Rigid hull inflatables	8,000,000
Aircraft:	
MRS aircraft	9,600,000
SRR aircraft	107,220,000
Automatic test equipment	1,690,000
Shore facilities and aids to navigation:	
Public family quarters	4,500,000
Station Sabine	2,020,000
Surface craft shore support	3,000,000
Support Center Kodiak—PAC	17,000,000
Total	300,000,000

RELATIONSHIP OF CAPITAL ASSET IMPROVEMENTS TO OPERATING AND MAINTENANCE COSTS

Senator ANDREWS. Now Admiral, what is the relationship between improving the capital assets of the Coast Guard and your operation and maintenance costs? Do not more modern vessels and aircraft decrease your operation and maintenance cost and allow you to stay on station longer with the same crew and do a better job for the same amount of dollars in operating costs?

Admiral HAYES. Ideally, Mr. Chairman, if you were to replace on a ship-for-ship basis without any change in capability, your operating and maintenance cost would go down as you got a new ship, very clearly, or a new aircraft, for that matter, or a new boat. As I think this committee is aware, because of the length of time we keep our capital assets, by the time we replace them, technology has changed. We take advantage of that technology because it gives us an improved capability.

So that what we actually find is that it might cost a little bit more to operate and maintain that new capital plant, but we can do more work per unit with the new equipment. A prime example of a case where we have both less plant and more output has been in our aids to navigation mission. We today have a lot lower capital plant than we had when we took this function over a number of years ago, while the number of aids to navigation has grown remarkably.

So it is an offset that occurs, of course, that although one would like to have a decrease in operating and maintenance costs as you get new capital plant, as a practical matter it seldom happens, for the reasons I have stated.

Senator ANDREWS. Well, Mr. Secretary, to follow up the comment the Admiral made just a moment ago that he does in fact have a list of the capital assets that they plan to purchase with the appropriated funds, do you see any hold up in moving forward with achieving the desire of the committee and the Congress in that these capital assets be procured as soon as possible?

Secretary LEWIS. Within the confines of the funds that are available, obviously we would start the procurement process immediately when the list has been processed and approved.

Senator ANDREWS. But Mr. Secretary, does your definition of funds available refer to funds available from the Congress or funds available from Mr. Stockman?

Secretary LEWIS. There is no difference between funds available from the Congress and the amount OMB has released. We can submit to you for the record the apportionment, which Don Derman has with him here. I am speaking within that budgetary framework.

Senator ANDREWS. So the $600 million that is in the capital account can be obligated and committed on this list.

Senator CHILES. No; that is the beautiful catch-22 of it, Mr. Chairman, the way they designed it.

Senator ANDREWS. But let me have the Secretary answer that because that is where we are going around the mulberry bush.

Secretary LEWIS. $405 million of that can be made available in fiscal year 1982, based on the budget figures I have.

Senator ANDREWS. But according to the figures——

Secretary LEWIS. Can be obligated.

Senator ANDREWS. But according to the figures that Congress gave you, appropriated in a bill signed by the President, there is another $279 million floating around. Who decided? Who made the decision that that cannot be obligated?

Secretary LEWIS. Well, based on the——

Admiral HAYES. I can answer that. It is simply, Mr. Chairman, that we are unable to obligate it in the remaining time during the current fiscal year. It just simply is not possible. Part of it is that we have contracts that are continuing contracts. The procurement of our 270-foot cutters, for example, has a fiscal year 1983 cost increment. That has to be obligated out of these dollars. So that will not be obligated in fiscal year 1982.

Senator CHILES. Mr. Chairman?

Senator ANDREWS. Senator Chiles.

Senator CHILES. Again, that is the catch-22 because there is only $19.2 million that is put in the request for 1983. You are afraid to obligate any more of that 1982 money because you have those continuing procurement obligations that would come due in 1983.

Admiral HAYES. That is basically correct, Senator Chiles.

Senator CHILES. So there, Mr. Chairman, is the way they have designed a deferral without a deferral, the rescission without a rescission.

Senator ANDREWS. That is right, and that is the way you make an end run around Congressional intent to get the Coast Guard up to capability with modern vessels as soon as possible.

Admiral, could you submit for the record a detailed obligation plan assuming an additional $300 million is brought forward by Senator Stevens, who is the chairman of the Defense Appropriations Subcommittee, in fiscal 1983 so we would have that information?

Admiral HAYES. Yes, sir.

[The information follows:]

The requested information is being developed and will be delivered to the committee separately.

COAST GUARD R. & D. CENTER

Senator ANDREWS. I have two questions that Senator Weicker has asked me to ask you, plus a list of written questions.

Admiral, what action to date has the Coast Guard taken on the R. & D. center at Avery Point, Groton, Conn.?

Secretary LEWIS. Can I answer that?

Senator ANDREWS. Yes.

Secretary LEWIS. Actually we realize considerable savings by moving that R. & D. center partly to the center in Boston and part of it to Washington and have so recommended. Lowell Weicker has asked us if we would consider not moving the center until he has had a chance to work with the Department of Commerce to move a NOAA station into that facility.

In deference to the Senator, we are deferring any action temporarily. From a dollar-and-cents standpoint it would be in the interest of the Coast Guard to move the center as promptly as possible.

Senator ANDREWS. Senator Weicker would also like to know, Mr. Secretary, that considering the essential work that that center conducts, including pollution studies and fingerprinting of oil spills, how do they justify the reduction of its R. & D. in Connecticut?

Secretary LEWIS. Because we have other facilities with sufficient space and some of the same skills, and there is a duplication of management. The consolidation would be justified just from a management standpoint, and I have discussed that with the Senator.

Senator ANDREWS. I have some other written questions that Senator Weicker would like answered and will include them with a group of written questions I have.

Senator Chiles.

SURFACE EFFECT SHIP

Senator CHILES. A good example of how the Coast Guard could effectively spend the money appropriated for its capital program now is the surface effect ship program. One of these vessels has been put through a 6-month test by the Coast Guard down in the eighth district. I understand there is considerable enthusiasm in the Coast Guard for this vessel. It apparently can reach 40 knots. It is ideal for drug interdiction efforts.

Another good feature is the cost that is in the range of $4 to $6 million per vessel. The company that produces these vessels has provided the General Accounting Office with a written confirmation that two vessels could be delivered within 18 weeks and one-third could be delivered within 1 year. Given the time that it normally takes us to get a Coast Guard vessel, that, of course, is a very, very short time. It is sort of off-the-shelf buying.

What are the Coast Guard's plans for surface effect ship procurement?

Admiral HAYES. We have specifically identified in our procurement plans for this year the procurement of three high performance surface craft, Senator, and that is currently under discussion with the Department as to how we can proceed with that as rapidly as we possibly can. We hope on that particular item to obligate it this fiscal year.

Senator CHILES. I thank you. I think that would be a great, great help.

Senator ANDREWS. Thank you, Mr. Senator.

Mr. Secretary, I would like to commend you for your responsiveness to the concerns that were expressed by members of Congress. We all know, and sometimes we do not recognize it too easily, but we all know it is the most difficult job to reconcile program requirements with very tight fiscal restraints. Inevitably what we come up with cannot make anyone completely happy, but I believe you have truly grasped the thrust of the congressional concern, which is that delivery of the most essential and lifesaving Coast Guard services will not be threatened.

We appreciate your coming here this morning, and I speak for all the Senators in regard to their gratitude to you for straightening out a rather sticky situation in your usual forthright manner. As you know, we have a few other problems in the capital accounts, and I am sure we will get those resolved.

PREPARED STATEMENTS AND SUBMITTED QUESTIONS

Might I point out, Mr. Secretary, that Senators Hollings, Cannon, and Benson also have questions that we will submit for the record.

Mr. Secretary, again, thank you so much.

Mr. Secretary, we are going to put the statement of Milton J. Socolar, the Special Assistant Controller General, on the Coast Guard's plans for obligating acquisition and structural improvement funds in the record at this point, too.

Senator Chiles.

Senator CHILES. I think the statement was that they have not completed their check and we well might want them to come back when we have our regular hearing in March.

Senator ANDREWS. Fine.

Senator Cohen has a statement he would like submitted for the record at this point, so without objection it will be included.

Thank you very much, Mr. Secretary.

Secretary LEWIS. Thank you very much.

[The prepared statements and the following questions which were not asked at the hearing but were submitted for response for the record follow:]

STATEMENT OF MILTON J. SOCOLAR, SPECIAL ASSISTANT CONTROLLER GENERAL, U.S. COAST GUARD

WE ARE HERE TODAY TO DISCUSS THE STATUS OF OUR REVIEW OF THE COAST GUARD'S PLANS FOR OBLIGATING APPROPRIATED FUNDS FOR ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS (AC&I) DURING FISCAL YEARS 1982 AND 1983.

IN MEETING THE TIME REQUIREMENTS OF THE SUBCOMMITTEE, WE WERE ABLE TO MAKE ONLY A LIMITED ANALYSIS OF THE FISCAL YEARS 1982 AND 1983 BUDGETS FOR AC&I. ALSO, WE DISCUSSED WITH COAST GUARD OFFICIALS HOW AND WHEN THEY PLAN TO OBLIGATE THESE FUNDS AND WHETHER THEIR PLANS COULD BE ALTERED. THUS FAR, WE HAVE NOT VERIFIED THE INFORMATION PROVIDED TO US NOR HAVE WE RESOLVED ANY LEGAL IMPLICATIONS. AS REQUESTED BY THIS SUBCOMMITTEE AND OTHERS ON FEBRUARY 10, 1982, WE ARE CONTINUING OUR REVIEW AND PLAN TO PROVIDE A REPORT TO YOU NEXT MONTH.

FISCAL YEAR 1982 FUNDING

THE COAST GUARD WAS APPROPRIATED A TOTAL OF $684 MILLION FOR AC&I IN TWO APPROPRIATIONS ACTS. THIS COMPARES TO THE COAST GUARD'S JULY 1980 BUDGET REQUEST TO THE DEPARTMENT OF TRANSPORTATION FOR $887 MILLION.

THE FY '82 TRANSPORTATION APPROPRIATION ACT PROVIDED $384 MILLION TO THE COAST GUARD FOR AC&I, OF WHICH $175 MILLION IS RESTRICTED FOR USE IN ITS DRUG INTERDICTION PROGRAM. THE COAST GUARD WAS ALSO PROVIDED $300 MILLION FOR AC&I IN THE FY '82 DEPARTMENT OF DEFENSE APPROPRIATION ACT. THE FULL $684 MILLION REMAIN AVAILABLE FOR OBLIGATION UNTIL SEPTEMBER 30, 1986.

THE COAST GUARD'S RESOURCE NEEDS

OVER THE PAST SEVERAL YEARS, THE COAST GUARD HAS CONSISTENTLY STATED TO CONGRESSIONAL COMMITTEES THAT ADDITIONAL FUNDS ARE NEEDED TO REPLACE ITS AGING FLEET AND TO EFFECTIVELY CARRY OUT THE ADDITIONAL RESPONSIBILITIES IT HAS BEEN ASSIGNED OVER THE PAST 10 YEARS. WE HAVE ALSO EXAMINED THE ADEQUACY OF THE COAST GUARD'S RESOURCES FOR ACHIEVING MISSION OBJECTIVES. IN OUR APRIL 3, 1980, REPORT ENTITLED "THE COAST GUARD--LIMITED RESOURCES CURTAIL ABILITY TO MEET RESPONSIBILITIES" (CED-80-76), WE CONCLUDED THAT THE COAST GUARD HAD NOT BEEN ABLE TO ADEQUATELY CARRY OUT SOME OF ITS RESPONSIBILITIES BECAUSE OF RESOURCE LIMITATIONS. THE REPORT POINTED OUT THAT THESE LIMITATIONS WERE THE RESULT OF

INCREASES IN THE COAST GUARD'S RESPONSIBILITIES, WHICH WERE NOT ACCOMPANIED BY ADEQUATE INCREASES IN ITS RESOURCES.

IN A MORE RECENT REPORT ENTITLED "COAST GUARD DRUG INTERDICTION ON THE TEXAS COAST" (CED-81-104, MAY 19, 1981), WE STATED THAT MARIJUANA SMUGGLING ALONG THE TEXAS COAST HAD INCREASED WHILE THE NUMBER OF COAST GUARD CUTTERS AND AIRCRAFT USED TO INTERDICT THIS SMUGGLING HAD NOT. WE CONCLUDED THAT MORE RESOURCES WOULD BE NEEDED IF THE COAST GUARD IS TO ACHIEVE ITS 75 PERCENT DRUG INTERDICTION GOAL. AT THE TIME OF OUR REVIEW, THE COAST GUARD ESTIMATED THAT ITS AVERAGE SEIZURE RATE WAS ABOUT 15 TO 20 PERCENT OF THE MARIJUANA SMUGGLED BY SEA.

COAST GUARD USE OF ITS RESOURCES

ACCORDING TO THE COAST GUARD, IT PRESENTLY HAS THREE MAJOR PROCUREMENT ACTIONS FOR THE ACQUISITION OF 13 CUTTERS, 90 HELICOPTERS, AND 41 SURVEILLANCE AIRCRAFT. THESE PROCUREMENTS WERE INSTITUTED IN PREVIOUS YEARS AND ARE IN VARYING STAGES OF COMPLETION. UNDER THESE CONTRACTS, DELIVERY WILL BE COMPLETED DURING THE NEXT FEW FISCAL YEARS. THE COAST GUARD MAKES PROGRESS PAYMENTS ON THESE CONTRACTS BASED ON CONTRACTOR PERFORMANCE ACCORDING TO SCHEDULES PROVIDED IN THE CONTRACTS.

THE ADMINISTRATION RECENTLY SUBMITTED ITS FISCAL YEAR 1983 BUDGET TO THE CONGRESS AND REQUESTED $19.2 MILLION IN ADDITIONAL FUNDING FOR AC&I. THIS $19.2 MILLION IS NOT SUFFICIENT TO SATISFY THE PROGRESS PAYMENTS WHICH WILL BE DUE IN FISCAL YEAR 1983 IF THE PROCUREMENTS MENTIONED ARE ALLOWED TO CONTINUE.

THE COAST GUARD ESTIMATES ITS EXISTING COMMITMENTS TOGETHER WITH A NUMBER OF RELATIVELY SMALL NEW COMMITMENTS WILL REQUIRE $379.6 MILLION IN FISCAL YEAR 1982. WE UNDERSTAND THAT BECAUSE OF THE SMALL AMOUNT REQUESTED IN THE ADMINISTRATION'S BUDGET FOR FISCAL YEAR 1983, THE COAST GUARD PLANS TO RESERVE $306 MILLION OF ITS PRESENT RESOURCES FOR FISCAL YEAR 1983, AND ABOUT $5.4 MILLION FOR FISCAL YEAR 1984 TO MEET PROGRESS PAYMENTS THAT WILL FALL DUE UNDER THE EXISTING CONTRACTS AND PAYMENTS THAT WILL BE REQUIRED UNDER NEW CONTRACTS.

WE UNDERSTAND FROM COAST GUARD OFFICIALS THAT THEY DO NOT RECORD THE FULL PRICE OF THESE CONTRACTS AS OBLIGATED WHEN THEY ARE AWARDED. RATHER, THE AMOUNT TREATED AS OBLIGATED IS THE

ANTICIPATED AMOUNT REQUIRED TO SATISFY PAYMENTS THAT MUST BE MADE TO CONTRACTORS FOR WORK PERFORMED IN THAT FISCAL YEAR.

THEREFORE, THE AMOUNT THE COAST GUARD WILL CONSIDER OBLIGATED IN FISCAL YEAR 1982 WILL BE APPROXIMATELY $379.6 MILLION. UNDER THIS SCHEME, THE REMAINDER REPRESENTS UNOBLIGATED FUNDS WHICH ARE AVAILABLE FOR OBLIGATION. HOWEVER, IF THE FULL AMOUNT OF THE REMAINDER IS OBLIGATED FOR ADDITIONAL CONTRACTS AND THE COAST GUARD DOES NOT RECEIVE FISCAL YEAR 1983 FUNDING SUFFICIENT TO SATISFY ITS PROJECTED PROGRESS PAYMENTS UNDER THE EXISTING CONTRACTS, THE COAST GUARD WOULD HAVE TO TERMINATE SOME CONTRACTS. THIS WOULD ENTAIL PAYING TERMINATION COSTS.

WE HAVE NOT YET DETERMINED WHETHER THE COAST GUARD'S OBLIGATION PRACTICES ARE IMPROPER, OR THE EXTENT TO WHICH FUNDS PLANNED FOR USE IN FISCAL YEAR 1983 COULD BE OBLIGATED THIS FISCAL YEAR. RESOLUTION OF THESE QUESTIONS ARE NECESSARY BEFORE WE CAN ADDRESS THE ISSUE OF WHETHER FUNDS PRESENTLY ARE BEING WITHHELD FROM OBLIGATION.

DRUG INTERDICTION ACTIVITIES

AS PREVIOUSLY MENTIONED, THE TRANSPORTATION APPROPRIATION ACT LIMITS THE USE OF $175 MILLION PROVIDED IN THAT ACT TO DRUG INTERDICTION EFFORTS. WE UNDERSTAND THAT SOME OF THE CUTTERS AND HELICOPTERS ALREADY CONTRACTED FOR WILL BE USED TO SOME EXTENT FOR DRUG INTERDICTION. UNTIL WE RESOLVE THE ISSUES PREVIOUSLY DISCUSSED CONCERNING THE EXTENT OF THE COAST GUARD'S UNOBLIGATED BALANCES, AND UNTIL WE EXAMINE THE PURPOSES FOR WHICH OBLIGATED FUNDS ARE BEING USED, WE ARE UNABLE TO DETERMINE WHETHER THE COAST GUARD IS COMPLYING WITH THE LIMITATION ON USE OF THE $175 MILLION.

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MR. CHAIRMAN, THIS CONCLUDES MY STATEMENT. WE WILL BE PLEASED TO RESPOND TO QUESTIONS.

Statement of Hon. William S. Cohen, U.S. Senator From Maine

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE: I am pleased to have this opportunity to share with you my thoughts and concerns about the proposed supplemental appropriation for the fiscal year ending September 30, 1982, for the U.S. Coast Guard. I want to thank the Subcommittee for arranging this hearing today.

A month ago, we learned that, as a result of the application of across-the-board cuts in December's continuing resolution, the Coast Guard's fiscal year 1982 budget would be woefully inadequate.

If increased funding is not provided, the Coast Guard will be forced to reduce its personnel levels by 3,400 (from approximately 40,000) over the next year and close up to 20 of its search and rescue stations. In addition, it will mean the decommissioning of up to 10 Coast Guard vessels, the closing of many examination/documentation offices, the possible closing of three or more Coast Guard air stations, and a substantial reduction of Coast Guard efforts in the areas of boating safety, aids to navigation, oceanographic research, equipment maintenance, and training. Further, termination of up to three vessel traffic systems and the closure of one Coast Guard district office are expected.

I find these reductions totally unacceptable. They will inevitably result in a significant reduction in the Coast Guard's ability to perform the many duties with which it is charged.

In Maine alone, the consequences will be very serious and concern me greatly. The Coast Guard provides a number of vital services to the State of Maine. The most important is search and rescue operations. For some time, I have attempted to convince the Coast Guard to station a helicopter along the Maine coast, thus reducing the time between take off and when rescue operations begin. I have long felt that the intricate configuration of Maine's 3,500 mile coastline, the increasing requests for assistance, and the location of the nearest helicopter protection -- more than one hour from the southernmost extremity of Maine, at Cape Cod, Massachusetts -- are compelling factors favoring a helicopter facility in Maine.

However, Coast Guard officials have long contended that search and rescue statistics do not substantiate the need for helicopter services in the Gulf of Maine beyond what can be provided from the

Cape Cod Air Station. Further, the Coast Guard remains convinced that, by locating all seven of its helicopters at Cape Cod, it is better able to serve the entire New England area.

The number of mariners lost in the Gulf of Maine is on the rise. At least 15 have perished since 1979, and it is estimated that at least seven of them could have been saved with an adequate aerial search and rescue operation. I fear that the number of deaths will continue to climb at a rapid rate if the Coast Guard does not act.

I do not believe that the Coast Guard is insensitive to the mariners in the Gulf of Maine. The truth of the matter lies in the fact that the Coast Guard simply does not have sufficient funding to provide adequate helicopter search and rescue service to the Gulf of Maine. How many more human lives must be taken to statistically justify this service? I am certain Coast Guard officials consider this question frequently, not only for services to Maine and New England, but throughout the country.

Enforcement of our fisheries laws also faces a 65 per cent cut unless additional appropriations are forthcoming. This will have a disproportionately adverse impact on a border state like Maine which faces stiff competition from Canadian fishermen. Beyond this concern, drugs will flood many of Maine's coastal communities as enforcement efforts will drop off significantly because of budget cuts. Finally, the closure of examination and documentation offices will create an unnecessary and costly hardship on many vessel owners.

The Coast Guard now faces a crisis situation. Its fleet represents the oldest fleet of any navy or coastal service in the world. The average age of Coast Guard ships is 22 years old, with some over 40 years old. This both reduces the Coast Guard's ability to fulfill its statutory duties and endangers our men and women. The Cuyahoga, which sank in 1978 at a cost of 11 lives, was 52 years old. The ships are in such poor condition that the average vessel must spend two days in port for maintenance for each day at sea. Coast Guardsmen laboring faithfully during 100-hour work weeks find their morale fading steadily in the face of frustration over inadequate and outdated equipment, insufficient maintenance, and decreasing manpower. This crisis is further highlighted by the recently announced personnel reductions, vessel decommissionings, and base closings. We and we alone are responsible for this situation. While Congress has been quick to give the Coast Guard additional duties and responsibilities, it has failed to appropriate sufficient funds to allow the Coast Guard to fulfill these duties.

It is time to address this situation. I strongly urge the Administration and my colleagues to act immediately to either provide the Coast Guard with the additional long overdue funds necessary for it to properly carry out the duties we have given it, or reduce some of the duties it is now legally required to perform.

Questions Submitted by Senator Andrews

PROPOSED REDUCTIONS

Senator Andrews: For each specific facility or activity currently proposed for closure, reduction, or termination, please provide for the record a detailed listing including the following:

The cost and personnel impact relating to each item.

Response: The cost and personnel impact relating to each item currently proposed for closure, reduction, or termination is summarized by the following table:

	FY82 Savings ($in millions)			
Item	Item	Cum.	Military	Cum.
1. Reduced Operations under the Continuing Resolution	$ 7.0	$ 7.0	0	0
2. Reduce Human Relations Counselors	0.1	7.1	18	18
3. Reduce Academy	0.5	7.6	13	31
4. Reduce Band	0.2	7.8	24	55
5. Reduce CVS/PES Programs	3.0	10.8	163	218
6. Close Oceanographic Unit	0.7	11.5	43	261
7. Reduce RBS Program	3.5	15.0	174	435
8. Reduce Safety/Inspection Staff	0.4	15.4	10	445
9. Reduce Public Affairs Support	0.2	15.6	21	466
10. Reduce Recruiting	1.4	17.0	35	501
11. Close VTS's	1.5	18.5	103	604
12. Close TRACEN Alameda	0.6	19.1	225	829
13. Reduce MACKINAW	0.3	19.4	35	864
14. Reduce Aids to Navigation Teams	0.5	19.9	70	934
15. Close Marianas Section	0.3	20.2	0	934
16. Reduce Training	3.0	23.2	0	934

Item	FY82 Savings ($in millions) Item	Cum.	Military	Cum.
17. Decommission CAMPBELL	2.2	25.4	128	1062
18. Retire 3 C-130s	2.4	27.8	72	1134
19. Decommission WALNUT and HOLLYHOCK	1.0	28.8	78	1212
20. Reduce Support Personnel	2.0	30.8	188	1400
21. Close San Juan Industrial Facility*	0.3	31.1	40	1440

* Under reconsideration

Senator Andrews: Please provide for the record a detailed listing of whatever performance or cost-benefit data may have been applied.

Response: Specific, detailed performance or cost-benefit data were not examined in developing the list of items proposed for closure, reduction, or termination in FY 1982. Rather, items on that list were included either because they had already been scheduled for reduction in FY 1983 or because they were directly related to the planned lower levels of activity envisioned in FY 1982.

Senator Andrews: Please provide for the record a detailed listing of what the impact will be on the delivery of essential services and what alternative means have been programmed to provide those services.

Response: The impact on the delivery of essential services provided to the public will be minimal. Many of the items to be reduced or terminated actually will not be noticed by the public since they only impact upon the internal operations of the Coast Guard. Examples of such items include the reduction of human relations counselors, public affairs support, and inspection staffs. Where facilities will be closed or reduced essential services will be provided by other Coast Guard units. For example, fifteen Regional Examination Centers will be established to process merchant mariner's documents and licenses. In fact, by simplifying and reducing paperwork it may actually be possible to reduce the present documentation backlog.

Senator Andrews: Please provide for the record at detailed listing of which reductions or terminations would have taken place regardless of the availability of funds, such as routine decommisionings, personnel savings through computerization, and so forth.

Response: The following is a list of reductions or terminations which would have taken place regardless of the availability of funds:

Reduced Operations under the Continuing Resolution
Reduce Human Relations Counselors
Reduce Academy
Reduce Band
Reduce CVS/PES Programs
Close Oceanographic Unit
Reduce RBS Program
Reduce Safety/Inspection Staffs
Reduce Public Affairs Support
Reduce Recruiting
Close VTS's
Reduce Alameda

Senator Andrews: Please provide for the record a detailed listing of how these proposed closures or reductions relate to the proposed fiscal 1983 budget.

Response: The proposed reductions are expected to save $31.1M in FY 1982, and as seen from the following, a total of $52.1M in FY 1983.

Item	FY83 Savings ($in millions) Item	Cum.
1. Reduced Operations	$ 0	$ 0
2. Reduce Human Relations Counselors	0.3	0.3
3. Reduce Academy	0.5	0.8
4. Reduce Band	0.2	1.0
5. Reduce CVS/PES Programs	9.2	10.2
6. Close Oceanographic Unit	1.8	12.0
7. Reduce RBS Program	7.5	19.5
8. Reduce Safety/Inspection Staff	0.5	20.0
9. Reduce Public Affairs Support	0.4	20.4
10. Reduce Recruiting	2.7	23.1
11. Close VTS's	2.6	25.7
12. Close TRACEN Alameda	2.5	28.2
13. Reduce MACKINAW	0.6	28.8
14. Reduce Aids to Navigation Teams	1.1	29.9
15. Close Marianas Section	0.6	30.5
16. Reduce Training	5.0	35.5
17. Decommission CAMPBELL	4.2	39.7
18. Retire 3 C-130s	4.8	44.5
19. Decommission WALNUT and HOLLYHOCK	2.0	46.5
20. Reduce Support Personnel	4.4	50.9
21. Close San Juan Industrial Facility	1.2	52.1

OPERATION OF SAR FACILITIES

Senator Andrews: Has the Coast Guard made any attempt in the past to turn over SAR and other facilities to state or local officials in lieu of just cutting off service entirely? Do you have any future plans in this regard?

Response: The Coast Guard has not in the past attempted to turn over the responsibility for search and rescue or other facilities to state governments or localities. State and local governments have generally expressed no interest in such transfers, since implicit in closure decisions was the lack of federal funding for the respective facility. On occasion, however, communities have utilized vacated Coast Guard facilities to provide limited local law enforcement and rescue services. We currently have no plans in this regard; however, we would fully cooperate with any locality expressing such an interest, to the extent it is consistent with prudent management of Federal resources. It should be noted that a number of smaller, seasonal stations are manned by Coast Guard Reservists and members of the Coast Guard Auxiliary, who are often residents of the local community.

SUPPLEMENTAL REQUESTS

Senator Andrews: It is our understanding that there will be a supplemental request of $78.1 million for military pay, which was not transmitted by the President along with the 1983 budget. Can you tell us if, and when, the Administration plans to send forth this pay supplemental request?

Response: We understand that OMB plans to include funds for the Coast Guard in its annual consolidated request to the Congress for all agencies requiring pay supplementals. The $78.1 million includes military and civilian pay for the Operating Expenses appropriation.

Senator Andrews: Your budget submission included a supplemental appropriations request of $30.5 million. What is this money being requested for? Provide a detailed justification.

Response: The following is a detailed description of the $30.5 million program supplemental request:

1. Career Sea Pay....................................$8,600,000
   The Military Pay and Allowances Benefits Act (P.L. 96-579) increased the monthly rate for career sea pay, extended entitlements to include warrant and commissioned officers, and provided a career sea pay premium of $100 a month for members who have served on sea duty more than 36 months consecutively.

2. Basic Allowance for Quarters (BAQ)................$700,000
   Effective 1 January 1981, P.L. 96-579 provided eligibility for BAQ to single members in pay grade E-7 and above stationed aboard ships. This only applies when the vessel to which they are assigned is not scheduled to be away from home port for more than 180 consecutive days. There are approximately 280 eligible members.

3. DOPMA Requirements................................$7,317,000
Public Law 96-513, Defense Officer Personnel Management Act (DOPMA), provides for substantial changes in enlisted personnel basic allowance for subsistence (BAS) and per diem. The intent of the law is to provide the same treatment for enlisted members as for officers. These increased benefits became effective 15 September 1981.

4. Fuel Price Increases..............................$8,383,000
This represents a 29% increase experienced through June 1981 in the price of fuel purchased from local contractors and a 12% increase in cost of fuel purchased from the Defense Fuel Supply Center effective October 1, 1981.

5. Haitian Migrant Interdiction Operations...........$5,500,000
Coast Guard continuation of the interdiction of Haitian emigrants through September 30, 1982 has resulted in an increased funding requirement to support special vessel and aircraft patrols in the Windward Passage.

USE OF AC&I FUNDS

Senator Andrews: How much of the $684 million in AC&I could be obligated in FY1982 if vessels and aircraft were available "off the shelf" from various contractors.

Response: Except for existing Coast Guard and DOD contracts as described below, little of the $684 million could be obligated against "off the shelf" vessels and aircraft in FY1982. Even if a concerted effort were made to procure "off the shelf" vessels and aircraft, certain steps must occur before an obligation of funds. Operational evaluations must be conducted to ascertain if the vessel or aircraft is capable of fulfilling Coast Guard mission needs. After that a technical evaluation must be made to assure that the vessel/aircraft meets certain damage control, stability, safety and supportability criteria. Determination of the necessary modifications must be made. Federal procurement regulations must be adhered to, to insure a proper contract award. Even with an accelerated procurement process and assuming no contract procurement problems were encountered, obligations would probably not occur before FY1983.

Senator Andrews: What types of equipment are available "off the shelf" for Coast Guard use?

Response: DOD components have existing C-130 Long Range Search (LRS) aircraft procurements in progress and with a Military Interdepartment Procurement Request, we could buy into those procurements to provide replacements for older C-130 aircraft that have severe corrosion and wing problems. Coast Guard has finished an operational evaluation of a surface effect ship (SES) and is now technically evaluating this "off the shelf" surface craft. Rigid Hull Inflatables (RHI) are also available "off the shelf". These will replace the motor surf boats carried onboard larger Coast Guard cutters.

Senator Andrews: Please provide for the record a detailed explanation of how you will spend the AC&I money this year and next. Distinguish between maintenance, renovation and new construction and/or purchase, and be as specific as possible.

Response:

Vessels	Type Project	Obligation ($000s)		
		FY 1982	FY 1983	Outyears
270′ Medium Endurance Cutter (WMEC)	New Construction	170,000	100,030	...
High Performance Surface Craft	Purchase	...	14,100	3,900
Rigid Hull Inflatables	Purchase	6,200	1,800	...
WLB Sea-going buoy tender (SLEP)	Renovation	9,000	...	...
378′ High Endurance Cutter FRAM	Renovation	...	15,000	...
210′ Medium Endurance Cutter FRAM	Renovation	...	7,000	...
USCGC GLACIER - Major Maintenace Availablity	Renovation	...	6,500	770
Aircraft				
Medium Range Aircraft (MRS)	New Construction	34,830	9,600	...
Short Range Recovery Helicopters (SRR)	New Construction	107,120	107,220	...
Flight Simulators MRS/SRR	New Construction	1,200	600	...
Automatic Test Equipment	Purchase	690	1,000	...
Shore Facilities				
Minor AC&I - Shore Construction	New Construction	4,770	6,110	...
Rockland, ME - Rebuild Station - Phase II	Renovation	1,660	...	...
Public Family Quarters	New Construction	4,190	4,500	...
270′ WMEC Shore Support	New Construction	2,000	...	...
Academy - Engineering Building Phase III	Renovation	1,720	...	...
Support Center Kodiak - Rehabilitate Auto Repair Shop	New Construction	660	...	...
Support Center New York - Logistics Support Facility - Phase II	New Construction	2,130	...	...

Shore Facilities	Type Project	Obligation ($000s)		
		FY 1982	FY 1983	Outyears
Houston/Galveston, TX - Vessel Traffic Service - Restore Surveillance Capability	New Construction	600	400	...
Sabine, TX - Renovate Station Building and Replace Bulkhead	Renovation	1,000	2,890	...
Brooklyn, NY - Supply Center Computer Acquisition	Purchase	1,300	...	...
Electronic Equipment Replacement	Purchase	2,000	...	...
COMDAC Support Facility	New Construction	...	3,000	...
Support Center Boston - Engineering Maintenance Support (EMS) Facility	New Construction	6,000	...	...
Prince William Sound (Valdez, AK) VTS Communications	New Construction	...	400	550
Support Center Kodiak - Personnel Activities Center.	New Construction	...	17,000	...
High Performance Surface Craft Shore Support	New Construction	180	2,820	...
Aids to Navigation:				
LORAN-C Improvement Plan	Purchase	3,000	...	...
Yap/Marcus Island - Replace LORAN Towers	New Construction	...	3,030	...
Waterways Aids to Navigation	New Construction /Maintenance	1,700	2,150	150
Lighthouse Automation and Modernization (LAMP)	Renovation	1,597	853	...
Administration, Survey & Design, & Engineering Logistics	N/A	16,025	19,200	...
TOTAL		379,572	325,203	5,370

QUESTION SUBMITTED BY SENATOR CHILES

Question: In responding to a question from Senator Chiles, the Commandant acknowledged that sizeable FY 1982 funds are being carried over into FY 1983 principally because the Administration refused to support an adequate capital budget for FY 1983. Mr. Secretary, isn't this nothing more than "budget gimmickry" by the Administration? How can the Administration justify such budget treatment for a program so important to the President's national security and law enforcement objectives?

Response: With regard to the Commandant's response to a question from Senator Chiles, the Commandant did not indicate that the Administration was unwilling to support an adequate capital budget for FY 1983. We believe, and the Commandant concurs, that the Coast Guard's capital plant request for FY 1983 is a reasonable one which represents a commitment to Coast Guard's highest priorities, the replacement of major elements of Coast Guard's aging vessel and aircraft fleets. We do not feel our proposals are "budget gimmickry", but rather are meaningful proposals that will improve the Coast Guard's capital plant and enhance its seagoing capability and mission performance. The President's FY 1983 Budget reflects the Administration's concern for enhancing national security and law enforcement and provides balanced and realistic funding proposals to provide adequately for these objectives.

QUESTIONS SUBMITTED BY SENATORS HOLLINGS, CANNON, AND BENTSEN

COAST GUARD CAPITAL BUDGET

Question: Last year, after considerable discussion, the Congress provided a significant increase in the Coast Guard capital budget for FY 1982. Congress intended for this increased funding ($684 million) to address problems of aged, deteriorating equipment and facilities identified by GAO and to improve the Coast Guard's overall effectiveness at meeting increased responsibilities assigned to it by the Administration and the Congress. Studies by GAO and CRS have verified the need for higher annual capital appropriations more in line with initial Coast Guard budget requests than with final Administration submissions. The Administration appears unwilling to commit these increased FY 1982 resources and requests only $19 million in new capital funds for FY 1983. Why is the Administration unwilling to abide by Congressional intent to increase and improve Coast Guard capital resources?

Response: The Administration believes its proposals are consistent with Congressional intent. Over $100 million of CG's proposals would have gone into projects not even on the drawing board or still under research. As such, they would not be operational for several years and would not be available to meet the immediate needs in the law enforcement area in which Congress has expressed its concern.

The current proposals are responsive to that concern. The projects selected are the Coast Guard's previously proposed FY 1982/FY 1983 projects that were of highest priority among those expected to be ready for obligation and consistent with committee direction that at least $175 million be used for assets contributing to law enforcement. When the '82 and '83 budgets are adjusted for the Coast Guard's three major current procurements (270' medium endurance cutters, medium range search aircraft, and short-range recovery helicopters), new activity in FY 1983 shows an increase of almost $40 million over FY 1982, three-quarters of which is for vessel improvements, including major renovations on four large cutters.

Question: Moreover, Mr. Secretary, we understand that the Administration's FY 1983 budget indicates plans to spend no more than $350 million each year in FY 1984-87 for Coast Guard capital resources. If this is true, please indicate how these reduced funding levels over the four-year period support Congressional intent to increase and improve Coast Guard equipment and facilities?

Response: Specific plans have not been completed for the FY 1984 thru 1987. Our estimates were based solely on our FY 1982 and FY 1983 plans.

The Coast Guard's capital account, Acquisition Construction, and Improvements (AC&I), received an FY 1982 appropriation of $384 million. In addition, the Defense appropriations Act appropriated $300 million to be transferred to AC&I. Finally, there is $83 million in unobligated funds from prior years. Coast Guard cannot effectively obligate this level of funds in FY 1982 because of the long lead-time needed for design, engineering and procurement. Accordingly, the budget proposes levels of obligations in FY 1982 ($405 million) and FY 1983 ($358 million) that Coast Guard can realistically achieve.

Although our outyear estimates are considered preliminary, they were predicated on the Coast Guard's requirements for major capital replacement programs continuing.

SUPPLEMENTAL APPROPRIATIONS

Question: As you know, it normally takes until June or July before the Congress is able to enact supplemental appropriations for agencies of the government. Under certain circumstances, agencies are permitted by OMB through a special apportionment to spend a portion of anticipated supplemental appropriations to prevent unnecessary disruption of government agencies. If the Congress does not enact emergency appropriations for the Coast Guard in advance of the usual Congressional schedule, will a special apportionment be necessary to prevent service reductions and facility closings? If necessary, do you foresee any problem obtaining OMB approval of a special apportionment for the Coast Guard?

Response: In response to the first question, the Coast Guard Operating Expenses appropriation has already been apportioned with both the normal seasonal distribution and provision for a military pay raise supplemental so that 56% of funds appropriated to date are available in the first two quarters and 83% during the first three quarters.

We do not believe that any further deficiency apportionments would be necessary, even if the Coast Guard were to postpone all scheduled station closings.

During the first five months of this year, while the Coast Guard has closed no facilities, has implemented no major reductions-in-force, either military or civilian, and has been making salary payments at the increased military and civilian pay rates, actual obligations have been running $16 million per month below the amounts actually apportioned to them, and in fact, Coast Guard has been operating effectively (although with some self-imposed austerity measures) at an annualized rate that is actually below the amount already appropriated.

If Coast Guard continues to operate with its existing forces, making no reductions until the July date you indicate, then based on their obligation rate so far this year and assuming no reduction in staffing and closure of no facilities, they could meet their payroll, increase expenditures in all other cost areas by 35% over the rate at which they have been operating the past five months and still be within the funding level that has been apportioned to them. Further, they could continue that expanded rate through September 30 with the supplemental levels we have discussed, i.e., $78 million for pay and a total program supplemental of $46 million.

The response to your second question if that is necessary--and so far it does not appear that it would be necessary--OMB could make additional apportionments if it appeared that failure to do so would result in a threat to human life or loss of property.

Question: To maintain the same level of services provided in each area prior to the announced cutbacks in fisheries and drug law enforcement in 1981, we understand you would need about $212 million in supplemental appropriations for this Fiscal Year, in all accounts except the capital account. Anything below this amount, we understand, would result in a cut from the early 1981 level. Do you agree with this information? If not, please explain your reasons.

Response: To restore the Coast Guard to the level of services provided in 1981, the Coast Guard estimates it would need about $192 million in various accounts. However, this requirement has been reduced to about $124 million through streamlining of operations, management efficiencies and internal reprogramming actions.

Question: We do not agree with Assistant Secretary Derman's estimate of $78 million as the full amount needed in FY 1982 for military and civilian pay reaises. Our information indicates that in fact $99 million will be required in supplemental appropriations, consisting of $89 million for active duty Coast Guard military personnel, $5.5 million for reserve training, and $4.5 million for civilian employees. Do you agree?

Response: Supplementals for Coast Guard pay raises of $78.1 million for civilian and military personnel in Operating Expenses and $1.5 million for military personnel in Reserve Training are being considered. Although the full amount of the FY 1982 military and civilian pay raise is greater than the $78.1 million for Operating Expenses and $1.5 million for Reserve Training requested, the Coast Guard assumes the absorption of a portion of pay raise requirement through internal reprogramming actions.

Question: The 4 percent across-the-board cut in the FY1982 appropriation bill consists of about $46.3 million. Do you agree?

Response: The 4 percent across-the-board cut in the FY1982 appropriations bill represented $78.4 million of the amounts originally proposed for all Coast Guard appropriations in the appropriations bill. However, the reduction in the Operating Expenses appropriation was about 3.3%, amounting to $46.3 million below the March budget submission of $1,403 million, and 9.9 percent above the level proposed by the President in September.

Question: To support the level of civilian personnel required in the FY 1982 authorization legislation, about $8 million is needed in supplemental appropriations. Do you agree?

Response: We have shortages in our civilian pay accounts but they are due to a variety of reasons not associated with the FY 1982 authorization legislation.

Question: Roughly $55 million will be needed for fuel cost increases, mandated increases in military entitlements, telecommunications cost increases, and a variety of miscellaneous increases in overhead, not the $30.5 million included in the Administration's budget request. Do you agree?

Response: Although $55 million was the initial estimate of additional program requirements, the combination of the delayed delivery of the HU-25A airplanes, programmatic reductions still underway and other internal reprogramming actions indicate that the $30.5 million will satisfy our current requirements.

Question: To keep the Groton, CT research laboratory open, as required by the FY 1982 authorization act, about $4 million will be needed in supplementals. Do you agree?

Response: $4 million would be necessary to keep the Groton, CT Research and Development Center open; however, by closing the Center and maintaining an R&D activity in Washington, DC the Coast Guard can reduce costs and achieve greater efficiency through increased utilization of private sector contracting and Transportation Systems Center capabilities for its R&D efforts.

INCREASED COAST GUARD ACTIVITY IN SOUTH FLORIDA AREA

On February 16, 1982, before the Miami Citizens Against Crime Luncheon, Vice President Bush announced that . . . "The Coast Guard will immediately and significantly increase its forces and manpower in the South Florida area to help in the coming months with the interdiction of illegal drugs and aliens. In addition, there will be no budget cuts for the Coast Guard in South Florida." (emphasis added)

Question: Exactly when will the buildup in forces and manpower begin and when will it be completed? How long do you anticipate that it will be in effect?

Response: Coast Guard established an increased presence in the southeastern waters in October, 1981, to interdict illegal immigration from Haiti. The further buildup of forces described by Vice President Bush has begun. It may take as long as a month to reach the desired level of effort. Initial plans call for a six month effort with contingencies for continuation and/or escalation.

Question: What increases in forces and manpower will be required?

Response: Initial increases in forces for the six month period include 180 patrol days by High and Medium Endurance Cutters, 180 patrol days by WPB cutters, 170 helicopter days and an additional 38 personnel. Operations will be conducted out of numerous locations in Southeast U. S.

Question: Exactly how much funding will be necessary to support this effort?

Response: $5.5 million has been requested for maintenance of the Coast Guard's current Haitian interdiction efforts through the balance of this fiscal year. The cost implications of the current buildup are under review.

Question: Will the Administration request supplemental funding to support the buildup? If not, what other reductions will be made to free up the funds?

Response: As indicated in the response to the previous question, the cost implications are being reviewed. The Coast Guard has already identified a number of offsetting adjustments, including more effective utilization of resources currently devoted exclusively to training, and use of excess buoy tender time for law enforcement activities. Should additional funds be required to prevent a serious derogation of other Coast Guard responsibilities, the Department will support such a request.

Question: What will be the effect on the Coast Guard's drug enforcement efforts on the Eastern Coast and Gulf Coast states when the planned shift of personnel to Florida becomes effective?

Response: The strategy of the Coast Guard includes all coastal areas of the U.S. The keystone to this strategy is interdiction at the choke points which will reduce the supply of marijuana at all areas of the East and Gulf Coasts.

Question: During the Cuban refugee crises, when there was a similar shift of law enforcement presence to Florida, there was an increase in drug smuggling activity in the Gulf Coast. What steps will the Coast Guard take to ensure its drug enforcement effectiveness along the Gulf and East Coast States so that this shift in emphasis by drug smugglers does not recur?

Response: The operations conducted during the Cuban refugee crises do not parallel the shift in operations envisioned. The shift to respond to Cuban migration was strictly limited to the Straits of Florida primarily between Cuba and Key West. The prospective resource shift is targeted at drug smuggling and will be focused at the choke points or passes from the Caribbean to the Atlantic. This is part of the overall Coast Guard plan to stop smuggling to all areas of the U.S. Flexibility will be maintained so that enforcement resources can respond to trafficking shifts.

Question: What effect will the Coast Guard personnel reductions have on its drug interdiction plan efforts in these states [Gulf and East Coast]?

Response: We anticipate no direct personnel reduction in law enorcement functions.

COAST GUARD RESOURCES AND RESPONSIBILITIES

Question: Do you agree with the proposition that Congress must either increase the resources of the Coast Guard or else limit its responsibilities under existing law: Please elaborate.

Response: Currently, Coast Guard mission accomplishment is determined in most cases on the basis of performance standards established by the Coast Guard. These standards are to a large extent discretionary. The Coast Guard, in coordination with the Office of Management and Budget and the Office of the Secretary, is nearing completion of a Roles and Missions Study which will identify the appropriate missions and responsibilities of the Coast Guard and the levels of effort necessary to responsibly carry them out. This study will provide the basis on which the Administration and the Congress can effectively determined the total resource requirements of the Coast Guard.

NATIONAL SECURITY CONSEQUENCES OF COAST GUARD REDUCTIONS

Question: On February 16 of this year President Reagan met with leaders of the Reserve Officers Association, who informed him of their strong concern over the Administration's inadequate funding proposals for the Coast Guard and the serious implications for national security. The President said that he had been assured that the Coast Guard budget cuts would not impair national defense, and said that he would respond promply to their concerns.

Have you heard about this meeting with the Reserve Officers Association and what have you done to inform the President of the national security consequences of these cuts?

Response: Yes. As you know, many of the originally proposed closures and reductions are no longer being pursued by the Coast Guard. Reductions still under consideration by the Coast Guard fall into two categories: management improvements and low productivity facilities. The national security impacts of these remaining reductions is inconsequential.

ORGANIZATIONAL LOCATION OF COAST GUARD

Question: Congressman Davis has introduced a bill in the House which would effectively give responsibility and oversight of the Coast Guard to the Department of the Navy, in peacetime as well as wartime. What is your opinion of this proposal?

Response: We believe that the right place for the Coast Guard in peacetime is in the Department of Transportation. One of our principal roles in peace and in war is as facilitator of maritime transport. Search and rescue, port safety and security, aids to navigation and all the other missions are principally devoted to the safe and orderly movement of things upon the water. Even drug interdiction, fisheries enforcement and the interception of illegal immigrants are extensions of that same basic role. As the nation's principal agency charged with facilitating, regulating and safeguarding maritime transportation in peacetime, the Coast Guard belongs in the department with overall transportation responsibility.

STATUS OF COAST GUARD CUTTER ESCAPE

Question: What plans do you have to decommission the cutter ESCAPE which is presently based in Charleston, South Carolina? How do you intend to compensate for the loss of the cutter's services? How will the quality and effectiveness of the service in the area be affected?

Response: The ESCAPE is one of three former Naval vessels that were recommissioned for a two-year period at the conclusion of the Coast Guard's Cuban refugee efforts in 1980. This was done as a planned temporary effort to provide replacement vessel capacity while vessels in the regular fleet underwent maintenance overhauls necessitated by their higher than normal utilization during the refugee crisis. This effort will terminate at the end of FY 1982.

The primary area of mission responsibility of the ESCAPE is in Florida and the Caribbean. As the result of the ongoing buildup of Coast Guard capabilities in that area, the current level of the quality and effectiveness of service in that area will not be adversely affected.

Questions Submitted by Senator Weicker

IMPACT OF PROPOSED REDUCTIONS

Senator Weicker: As you know Connecticut's Coast Guard facilities and programs were hit hard by the proposed reduction in the services responsibilities. Please list the proposed closings in Connecticut and what actions have been taken by the Coast Guard to date.

Response: The following reductions in Coast Guard activities in Connecticut were part of the originally proposed Coast Guard wide FY 1982 consolidation/streamlinings:

Reduce and relocate the USCG Research and Development Center from Groton to Washington, D.C..
Decommission USCGC EVERGREEN at New London.
Reduce/relocate Coast Guard Band from New London to Washington, D.C..
Reduce Cadet Corps size at USCG Academy, New London.
Close Boating Safety Detachments at New London and Bridgeport.
Close sub-unit of Aids-to-Navigation Team New Haven at New London.
Reduce Aids-to-Navigation Team at New Haven.
Close Merchant Vessel Documentation Offices at New London, New Haven, Bridgeport and Hartford.

As part of an ongoing detailed review of the FY 1982 proposed reductions, changes to the above have occurred. These changes are:

The Coast Guard Band will be reduced but will not relocate from New London.
The USCGC EVERGREEN will not be decommissioned.
The Aids-to-Navigation sub-unit at New London will be closed but an Aids-to-Navigation sub-unit of the USCGC RED WOOD, New London will be established.

With the exception of the relocation of the USCG Research and Development Center, the Coast Guard has initiated the necessary internal management actions to effect the remaining reductions.

In response to Congressional direction, the Coast Guard has submitted its FY 1982 Research and Development Plan. Action to relocate the Research and Development Center will be taken upon approval of this plan.

Senator Weicker: This week Vice President Bush announced that the Coast Guard will engage in increased drug enforcement in the Southeast. Considering the drastic cuts in the Coast Guard budget and program, will activities and programs in other parts of the country be reduced to pay for this Southeast increase?

Response: Coast Guard resources (personnel, cutters, or aircraft) may be deployed or relocated from other geographical areas, but high priority operational requirements will not be significantly degraded.

Senator Weicker: What effects will the closing down of boating safety and aids to navigation offices in Connecticut and other states have on the over-all safety of boaters, fishermen, and merchant seamen?

Response: There was one Boating Safety Detachment (BOSDET) in Connecticut at New London. Twenty-seven other BOSDETS around the country are being disestablished. They were primarily involved in training Coast Guard boarding officers and State enforcement personnel. Coast Guard boarding officer training will essentially be integrated into other Coast Guard training. State personnel will continue to have available to them training at the National Boating Safety School at Yorktown, Virginia. BOSDETS also made public appearances, responded to boating safety queries, contacted the news media, and attended boat shows to provide safety information. States and volunteer safety organizations will be encouraged to increase their efforts in these areas to assure that boaters' safety awareness will be maintained.

In Connecticut there will be no Aids to Navigation Teams (ANT) disestablishments. ANT New Haven will be reduced in size and ANT Red Wood will be established in New London as a subunit of Coast Guard Cutter RED WOOD. The reduction of the aids to navigation program in the Third District, which includes Connecticut, should have minimal impact on commercial channels but may result in the elimination of some lower hazard Federal aids in smaller channels used solely for recreational purposes.

STATUS OF COAST GUARD CUTTER EVERGREEN

Senator Weicker: What is the status of the Coast Guard cutter EVERGREEN?

Response: There are no plans to decommission the Coast Guard Cutter EVERGREEN in the near future. Approximately 15 March 1982, the Coast Guard Cutter EVERGREEN will be redesignated from an Oceanographic Cutter (WAGO) to a Medium Endurance Cutter (WMEC), and will be employed primarily for Coast Guard Law Enforcement operations.

REDUCTION OF COAST GUARD FLEET

Senator Weicker: What percentage of the fleet will be affected by the Coast Guard's proposed decommissioning of ten cutters?

Response: The ten cutters originally scheduled for decommissioning represent 4.1 percent of the Coast Guard cutter fleet (vessels 65' and larger). However, our revised plan identifies only three decommissionings, representing 1.3 percent of the fleet.

RESTORATION OF FUNDING SHORTFALL

Senator Weicker: I have a listing of proposed Coast Guard wide consolidations and streamlining for FY 1982. If Congress is successful in adding $46 million to the Coast Guard budget, will the facilities and programs on this list be saved?

Response: If both the proposed $78.1 million pay supplemental and a $46 million program supplemental are added to the Coast Guard budget, the following facilities and activities will be continued in operation:

1. Proposed SAR Stations Closures
2. CGC CITRUS
3. CGC CLOVER
4. Proposed Reduction of (2) C-130 Aircraft
5. VC4 A Aircraft
6. Air Station LOS ANGELES
7. CGC BIBB
8. CGC INGHAM
9. Air Station BORINQUEN
10. ELEVENTH Coast Guard District Office
11. SECOND Coast Guard District Office
12. ACTIVITIES Europe
13. FAR EAST Section
14. Greater ANTILLES Section
15. Air Station SAVANNAH
16. Proposed Relocation/Reduction of Aircraft Resources
17. Proposed Group Reductions
18. Partial Support Personnel Reductions

QUESTIONS SUBMITTED BY SENATOR JACKSON

PUGET SOUND VESSEL SIZE LIMITS

Senator Jackson: You have been considering public comments concerning two oil tanker safety studies. This is part of an overall review of whether or not to propose substantial changes to existing regulations which would increase the size of tanker vessels allowed to operate in Puget Sound of the State of Washington. What is the status of your evaluation of the tanker safety studies?

Response: The evaluation of the tanker safety studies has been completed. The Final Environmental Impact Statement (FEIS) has been completed and the availability of the statement was published in the Federal Register of 5 March 1982.

Senator Jackson: When will you decide whether or not to propose changes in the tanker size limits?

Response: Of all the alternatives examined in the FEIS, the preferred alternative is to maintain the 125,000 deadweight ton limit. It is estimated that the final regulation will be published after 5 April 1982.

Senator Jackson: Conference language, in the FY 1982 Transportation Appropriations bill, instructed the Coast Guard that any increase in the present limit should increase the level of environmental protection presently being afforded to the Puget Sound region. Will the Coast Guard comply with the Committees' instruction in making any recommendation involving a change in tanker size limits? If not, why not?

Response: Inasmuch as the preferred alternative in the FEIS would continue the 125,000 deadweight ton limit on tank vessels, the level of environmental protection would remain the same. However if some other alternative is selected, the Coast Guard would comply with the the Committees' direction to hold public hearings prior to the implementation of any changes in existing regulations.

Senator Jackson: Have your evaluations of the tanker studies to date provided you with any information that would support a change in existing regulations based on the previously stated requirement of increased environmental protection? If so would you please provide the Committee with such information. If not please give your reasons why.

Response: Our evaluations, as outlined in the FEIS, indicate the retention of the 125,000 deadweight ton limit is the preferred alternative.

Senator Jackson: The Committee also directed the Coast Guard to hold public hearings prior to the implementation of any changes in existing regulations.

Response: Inasmuch as the preferred alternative in the FEIS proposes no change to the tanker size limit, no public hearings are contemplated. However, if another alternative is selected, raising the size limit, public hearings will be scheduled.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

OPERATING FUNDS SHORTFALL

Senator D'Amato: It is my understanding that a shortfall of some $46 million is causing the Coast Guard to reduce operations throughout the Nation in fiscal year 1982. If the Coast Guard were to receive the $46 million what specifically would be done in each phase of operations?

Response: If both the Proposed $78.1 million pay supplemental and a $46 million program supplemental are added to the Coast Guard budget, the following facilities and activities would be continued in operation. In addition, Coast Guard Haitian interdiction operations could continue through September 30, 1982 and funds would be made available for legislatively mandated benefits and fuel cost increases.

1. Proposed SAR Stations Closures
2. CGC CITRUS
3. CGC CLOVER
4. Proposed Reduction of (2) C-130 Aircraft
5. VC4 A Aircraft
6. Air Station LOS ANGELES
7. CGC BIBB
8. CGC INGHAM
9. Air Station BORINQUEN
10. ELEVENTH Coast Guard District Office
11. SECOND Coast Guard District Office
12. ACTIVITIES Europe
13. FAR EAST Section
14. Greater ANTILLES Section
15. Air Station SAVANNAH
16. Proposed Relocation/Reduction of Aircraft Resources
17. Proposed Group Reductions
18. Partial Support Personnel Reductions

USE OF ADDITIONAL AC&I FUNDS

Senator D'Amato: I understand that in addition to the $384 million which the Transportation Appropriations Act for fiscal year 1982 earmarks for acquisition, constuction and improvements for the Coast Guard, the Department of Defense Appropriation Act for fiscal year 1982 appropriates an additional $300 million for AC&I. What is the status of this appropriation? What specifically do you plan to do with this additional money?

Response: The $300M AC&I add-on is available to the Coast Guard for obligation in FY 1982, as is the $384 million in the 1982 DOT Appropriations Act and $83 million in FY 1981 carryover. The additional $300M will be used to improve Coast Guard military readiness and law enforcement capabilities. Specific projects for which these funds will be used include: continuation of the WMEC 270' cutter, the HU-25 jet aircraft, and the HH65 helicopter procurement programs; mid-life renovation of the WMEC 210 and WHEC 378 cutters, procurement of three new high performance surface craft; and procurement of new type boarding craft.

IMPACT OF SHORTFALL ON PUERTO RICO

Senator D'Amato: What will the impact of the $46 million shortfall be in Puerto Rico?

Response: As a result of Secretary Lewis's decision to support a request for additional supplemental funds to restore some of the proposed facility closures, most of the proposed reductions in Puerto Rico have been cancelled. Only consolidation of the licensing and documentation functions and closure of the industrial facility will be implemented. However, we are reviewing our decision concerning the industrial facility.

QUESTION SUBMITTED BY SENATOR LEAHY

PROPOSED COAST GUARD REDUCTIONS IN VERMONT

Senator Leahy: The Coast Guard is planning a reduction in FY 1982 at the Burlington, VT, Station as well as the elimination of the recruiting office in Rutland, VT. What is the extent of this proposed reduction in both staff and funds? What is the rationale for the change beyond a reduction in spending? What steps are you taking to ensure that this reduction "will not significantly compromise the provision of essential services?"

Response: As a result of Secretary Lewis' decision to support a request for additional supplemental funds to restore some of the proposed facility closures, the proposed reduction at the Burlington, VT, Station has been cancelled. The recruiting office in Rutland, VT, involving one military position and $25,000 will be closed because of the significantly increased retention rate of Coast Guard military personnel.

QUESTIONS SUBMITTED BY SENATOR JOHNSTON

SURFACE EFFECT SHIPS

Senator Johnston: Admiral Hayes, in your prepared statement you stated that you planned to procure three new high performance surface craft for the Coast Guard to bolster drug interdiction activities in the Caribbean. I assume these craft will be purchased with FY82 dollars. What is your plan for additional craft in FY 1983 and the out years?

Response: The three high performance surface craft (Surface Effect Ships) you mentioned will be purchased as soon as possible. Our current plans are to purchase 2 high performance surface craft "off the shelf" for delivery within 6 months or less. We plan to take delivery of a third late in FY 1983. These acquisitions are reflected in our obligation plans for FY 1982 and FY 1983 contained in our FY 1983 budget request for the Acquisition, Construction and Improvements appropriation. Requests for additional craft in FY 1984 and beyond will be considered in the formulation of the FY 1984 budget, and for FY 1985 and beyond in the light of our operational experience with these craft and assessment of a continuing mission need for them.

Senator Johnston: To what extent will the Coast Guard be involved in performance testing and sea trials this fall of the U. S. Navy's 160 foot SES now being made by "stretching" the decommissioned 110 foot WSES-1 DORADO?

Response: Our Advanced Marine Vehicles Project Plan shows a technical evaluation of the 160 foot "stretched" SES between September 1983 and April 1984, followed by an operational evaluation between May 1984 and February 1985. These plans were formulated when it seemed unlikely that U. S. Navy funding would be available for field testing after the "stretching" modification. Now, the U. S. Navy funding picture has changed and these plans are less certain. We are discussing with the U. S. Navy the degree and timing of Coast Guard involvement.

Senator Johnston: I understand that the results of your evaluation of a 110 foot surface effect ship (SES) during the last half of 1981 were highly successful. Will you provide for the record a copy of the Coast Guard interim and final reports on the operations of the USCGC DORADO, the WSES-1?

Response: Because of the bulkiness of the material, one (1) copy each of the interim and final reports from the Eighth Coast Guard District of the operational evaluation of the USCGC DORADO (WSES-1) is being provided separately.

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. This concludes the hearing. The subcommittee will be recessed.

[Whereupon, at 11:07 a.m., Friday, February 26, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 9.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MARCH 9, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m. in room 1224, Everett McKinley Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Chiles, and Abdnor.

DEPARTMENT OF TRANSPORTATION

DEPARTMENTAL OVERVIEW

STATEMENT OF ANDREW L. LEWIS, JR., SECRETARY OF TRANSPORTATION

ACCOMPANIED BY:

- JOHN M. FOWLER, GENERAL COUNSEL
- DONALD A. DERMAN, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

Mr. Secretary, my apologies for being a little bit late. I was over in the Defense Subcommittee, where we are trying to save several billion dollars so that you can do your usually good work of investing those in the transportation needs of our Government. So you see, I was really working on your behalf.

Secretary LEWIS. Thank you, although I am not sure that Caspar Weinberger would agree.

Senator ANDREWS. Mr. Secretary, I understand you have a statement for our subcommittee. If you would present that statement, I assure you that it will be printed in full in the record. You can summarize it in any way you wish.

Secretary LEWIS. Mr. Chairman, with your approval, that is what we would like to do.

Senator ANDREWS. You may proceed.

Secretary LEWIS. Mr. Chairman, I am not going to make a lengthy introductory statement here, so we can get on with the questions.

Basically, what we have tried to do is to conform to the constraints of the current Federal budget, which is trying to do as well as we can to reduce deficits. Again, as I indicated to the Coast Guard, "cut the sails to fit the ship." On that basis, we think we have an adequate Department of Transportation budget proposal.

It is not one, as I have indicated earlier, that we feel would make sense in the long pull because of the deficiencies in, fundamentally, mass transit and highways, and very obviously, we are going to need some ADAP legislation to do the proper job with the FAA.

Essentially, the budget places high priority on maintaining a well balanced and safe transportation system, and the preservation and completion of the interstate. It includes capital funding for mass transit. It will include a new program in terms of improving the Nation's airspace. We believe our position on the Gorton bill, not from a budgetary standpoint but in terms of the effects of that bill itself, will improve the maritime industry.

PREPARED STATEMENT

With that, I think we will just turn it over to you and try to answer any questions that you may have.

[The statement follows:]

STATEMENT OF SECRETARY ANDREW L. LEWIS

I am pleased to once again have the opportunity to discuss the DOT Budget with this committee. We feel we have put together a budget which supports the Reagan Administration's premise that the cost and size of the Federal Government can be appreciably reduced while maintaining services and improving the quality and safety of transportation systems.

It focuses the Department's resources on those programs that are of broad national interest and can be more efficiently run at the Federal level, while leaving the state and local governments free to deal with those transportation issues they are better equipped to handle. It gradually phases out Federal subsidies for those services that should be paid for by users who benefit from them.

For fiscal year 1983, we are requesting $18.4 billion in budget authority compared with $20.3 billion in 1982. Outlays, or actual cash payments by the Department, are estimated to decrease to $19.0 billion in 1983, from a 1982 level of $20.6 billion.

This budget affirms the Administration's commitment to a safe, effective, well-maintained national transportation system.

- It places high priority on the completion of the Interstate highway system, and for the preservation of that system through timely reconstruction and rehabilitation.

- It includes capital funding for mass transit, for new equipment and repair facilities.

- It supports our progress toward self-sufficient, cost-effective rail systems for freight and passengers.

- It enables us to continue the safe and efficient management of our Nation's airspace, and to begin development of the new generation air traffic control system needed to meet the growth in air transportation.

- It provides for efficient and effective marine transportation.

As I reported to you last year, we have three basic policy goals for Department of Transportation programs.

There is a strong and essential place for the Federal Government in transportation. We maintain the airways. We have an obligation to the American people to promote and enforce transportation safety. We are properly responsible for a national network of Interstate highways. We provide the capital assistance to mass transit that the states and cities cannot supply. The Coast Guard provides a range of services that only a Federal agency can perform.

At the same time, there are transportation needs that can be met to a greater extent by the private sector operating competitively — with minimum regulation and maximum efficiency — so that the taxpayer will be better served at a lower cost.

Our second goal is to return to state and local jurisdictions the autonomy to deal with the transportation issues that concern their citizens and that they can carry out more efficiently.

Our third goal, affirmed in this budget, is to reduce or eventually eliminate Federal subsidies to those systems and services that do not benefit society as a whole and should therefore be self-supporting — paid for by those who do use or benefit from them.

As you review the DOT budget, I think you will see that we have held to these goals and are making progress toward attaining them. The experience we have had to date supports our belief that the Federal Government can be reduced in size without adversely affecting the quality of service. As the President emphasized in a recent press conference, we must focus on better management and more effective cost control within the Executive Branch -- and the budget we are proposing leaves no room for waste or inefficiency.

Approval of this budget will permit us to do a better job with fewer resources by focusing on the tasks that are Federal in nature, and forming a partnership with state and local governments so that local services can be managed more efficienty. Together, we can maintain a safe, reliable, efficient national transportation system.

Let me now turn to the individual programs.

FEDERAL HIGHWAY ADMINISTRATION

For Federal-Aid Highways, we propose total obligations equal to the total budget authority which will be in our legislative proposal for this program: $7.8 billion, which incidentally is also about equal to anticipated revenues. The proposed obligation ceiling for Federal-Aid Highways is $7.7 billion, with the usual exemption for Emergency Relief and with the obligation rate control (first enacted for 1982) intended to assure we do not exceed the estimated outlays of the President's budget proposals. Outside the Federal-Aid program, we propose financing from the Highway Trust Fund for Interstate Transfer Grants - Highways at $150 million and the shift to the FHWA of the Appalachian Development Highway System program at $80 million. FHWA's total program is $8.1 billion, a reduction of $0.5 billion from the enacted FY 1982 budget, including the Appalachian funds.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the National Highway Traffic Safety Administration, we are requesting an appropriation of $81.6 million for Operations and Research, along with a $77 million obligation limitation on State and Community Highway Safety. We will make the most effective use of highway safety grants by restricting eligibility to programs with the greatest potential for reducing deaths and injuries. We are in the midst of a rulemaking action to determine which state and local highway safety programs are most effective in reducing accidents, injuries, and fatalities. The rulemaking is due to be issued by April 1, 1982, and is required by the Omnibus Budget Reconciliation Act of 1981. Alcohol programs and emergency medical services are examples of the programs we expect to continue. The related Operations and Research program provides for an increase in budget authority of $6.7 million over 1982 appropriations. Of this increase, $2.8 million is for the National Center for Statistics and Analysis for full operation of 52 data collection sites.

FEDERAL RAILROAD ADMINISTRATION

For the Federal Railroad Administration, we are requesting $832 million in FY 1983, of which $600 million is for Amtrak. The FRA program has as its major focus railroad safety, in both safety inspection and railroad research activities, for which we are requesting a total of $49 million. Also, to fulfill the Federal commitment relative to reduction of Conrail's labor force, we are asking for an appropriation of $20 million to bring the total available for labor settlements to $220 million of the $400 million authorized by the Northeast Rail Services Act of 1981. This total availability is consistent with the Conrail business plan and represents a substantial savings to the taxpayers from the level of entitlements which would have accrued had not Title V of the Regional Rail Reorganization Act of 1973 been repealed by the 1981 Act.

This Administration's commitment to an efficient rail system is reflected in the $600 million request for Amtrak in FY 1983, which is a decrease of $135 million from the FY 1982 level. We base our case for this reduction on our estimate of savings available through a better fare structure, through operating efficiencies and productivity improvements, and through charging the states the full cost of running local services. The Omnibus Budget Reconciliation Act also relieved Amtrak from paying interest on its debt in FY 1983 which otherwise would add about $100 million to our request.

On the Northeast Corridor, we are continuing to emphasize safety and reliability rather than high speed service and we are requesting $115 million to continue improvements in track and curve realignments, tunnels and stations, signalling and communications, and service facilities.

No request for additional loan or loan guarantee authority for rail programs is included in the FY 1983 budget. Federal financial assistance initially provided the necessary transitional funding to help the marginal or bankrupt railroads through a crucial period of adjustment in the railroad industry, which now appears to be ending. For local rail service assistance, which will become the total responsibility of the States after 1983, I am proposing $20 million to close out the Federal program.

URBAN MASS TRANSPORTATION ADMINISTRATION

In 1983, $3.15 billion in budget authority is requested for mass transit programs. This is a reduction of 10% below the level provided for 1982, attributable primarily to the first major increment in our phased elimination of operating subsidies.

Capital grants -- while proposed at approximately current levels -- are directed primarily toward projects that modernize and repair existing, proven transit systems. Discretionary assistance for the initiation of new rail transit systems is not proposed in this budget.

We believe the Federal Government's role in mass transit should be to assist in funding capital improvements. Operational responsibility should rest with the State and local governments. The phase-out of operating assistance will allow states and localities to manage and operate transit systems in ways that best meet the needs and resources of the localities. A gradual phase-out of Federal operating subsidies gives cities and States time to adjust to the loss of funds. Formula grant funds available to urbanized areas for operating subsidies in FY 1983 would be reduced by 38% below the 1982 level, with further reductions proposed for 1984, and a complete phase-out scheduled by 1985. To cushion the temporary difficulties caused by this phase-out of Federal assistance, the transition funding will be concentrated on those large urban areas that provide the most transit service.

Consistent with a policy of repairing and modernizing the Nation's mass transit systems, we are requesting total capital grants of $2.4 billion, including Urban Discretionary grants of $1.56 billion, Urban Formula Bus Capital grants of $375 million, Interstate Transfer grants of $400 million, and Washington Metrorail grants of $100 million. In order that these funds be directed to where the public benefit is clearly demonstrated, capital expenditures will be targeted to systems already under construction, or to those that are already an effective part of an urban transportation network.

FEDERAL AVIATION ADMINISTRATION

The Federal Aviation Administration's request for $3.9 billion has been influenced by three important factors. First, we find FAA successfully emerging from the effects of the unprecedented and illegal strike of last August, an accomplishment worthy of considerable praise. Second, we see in FAA's Research and Development and Facilities and Equipment requests the beginnings of a carefully planned modernization of the national airways system, readied to match aviation technology anticipated at the close of this century. And third, the FAA request is based on the Administration's legislative proposal for appropriation and contract authorizations tied to an equitable user fee schedule which will make these authorizations possible.

Safety continues to be our guiding principle, demonstrated in our strike recovery work, where although there has been public inconvenience, there has been no threat to public safety. Viewing the Operations request for 1983 in relation to 1981 and 1982 tells much of the strike recovery story. The staffing increase from 1982 to 1983 reflects a new mix of controllers, controller aides, and flight service specialists designed for maximum efficiency in controlling and servicing air traffic, while overall FAA staffing shows a net reduction from the pre-strike levels.

The airport grant program is proposed at $450 million, the same as 1982, reflecting the Administration's legislative proposal, which recognizes that the Nation's largest airports have the capacity to finance their own development work. But in the Research, Engineering and Development and the Facilities and Equipment areas of this request, there are significant increases to usher in a multi-year program of replacing obsolete, labor-intensive elements of the National Airspace System with new technology.

The proposed authorizations for these appropriations provide for financing 85 percent of FAA's total costs out of the Trust Fund, which is to be enhanced by user fees revised to fairly allocate the costs of Federal aviation services. The President's Budget request underlines this connection by making nearly 60% of the combined total of these FAA capital programs subject to a later transmittal related to the success of our revenue proposals.

U. S. COAST GUARD

For the U.S. Coast Guard, we are requesting total new budget authority of $1.998 billion, which, together with the substantial carryover projected from FY 1982 capital appropriations, will give the Coast Guard a slight overall increase in their actual level of proposed program activity, or obligations.

Although the Coast Guard, along with the rest of the Department, is experiencing some reductions in programmatic activity in the current fiscal year, the Administration continues to support efforts to ensure the continuation of essential Coast Guard missions. The proposal I made at our hearing on February 26 is evidence of that support.

With respect to the additional AC&I funds appropriated in 1982, which we also discussed at the February 26 hearing, utilization of such funds in an orderly and efficient manner typically involves advance planning, engineering, and procurement documentation. Although the full amounts appropriated have been released for obligation, the Coast Guard has estimated that because of the relatively short lead time available for planning, they can obligate only $406 million of the $767 million available before September 30. For FY 1983 they are estimating total obligations of $358 million, including $339 million from carryover and $19.2 million in new budget authority for the costs of engineering and administrative support necessary to conduct the program, and the remaining $23 million will be obligated early in FY 1984.

For the Operating Expenses appropriation, where obligations and budget authority are synonymous, we are requesting $1.510 billion in addition to $31 million which will be paid to the Coast Guard by other agencies for that portion of the polar icebreaking program which serves their needs. The FY 1983 request in this appropriation, as well as in Retired Pay, will fund medical services formerly provided by the Department of Health and Human Services.

The total FY 1983 funding level of Operating Expenses is $60 million higher than the level at which comparable programs are being funded in FY 1982. The additional funds will be utilized primarily to operate new facilities and to provide improved maintenance of operating facilities.

MARITIME ADMINISTRATION

The Maritime Administration is included in our budget for the first time. As you know, MarAd was transferred to us from the Department of Commerce late in FY 1981. In connection with this transfer, the President directed that a comprehensive review be conducted of U.S. maritime regulatory and promotional policies. Our requests for the MarAd subsidy programs reflect consideration of this ongoing review.

Although I understand that jurisdiction over MarAd has not been shifted to this subcommittee, it is my hope that this situation is temporary, and I look forward to working with you on a fully integrated Transportation Budget.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

For the St. Lawrence Seaway Development Corporation, the 1983 budget projects revenues of $15.1 million, a sizable increase resulting from new toll rates recently negotiated with the Canadian Seaway Authority and, to a lesser extent, an anticipated rise in traffic. As a result, the Corporation expects to meet its projected program costs of $12.3 million, make its scheduled debt repayment of $2.0 million to the U.S. Treasury, and increase its cash revenues, which have been depressed in recent years.

OFFICE OF THE INSPECTOR GENERAL

For the Office of the Inspector General, our FY 1983 request of $25 million includes direct appropriations for costs previously funded by transfers from the Highway Trust Fund. The real increase of about $2 million is attributable to an expansion of contractual audit support and also reflects annualization of the 1982 transfer of Maritime Administration audit functions to this office.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

The Research and Special Programs Administration request of $21 million brings this relatively small research and regulatory arm of the Department up to the level needed to carry out its research functions and to pursue reforms in our hazardous materials and pipeline safety programs.

OFFICE OF THE SECRETARY

For the Office of the Secretary itself, the requests for general administration, coordination, and direction of departmental activities, along with that for the central research appropriation used mainly in planning and policy development, amount to $50 million. This includes a funding shift of $4.2 million, as the Office of the Secretary assumes direct funding responsibility for its Minority Business Resource Center, which was supported by the Federal Railroad Administration on a reimbursable basis during FY 1981 and FY 1982.

To return to my opening theme, we feel that approval of this budget will permit us to do a better job with less resources by focusing on the tasks that are truly Federal in nature, and forming a partnership with state and local governments, which can manage local services more efficiently. Together, we can maintain a safe, reliable, efficient national transportation system.

This concludes my prepared statement. We would be glad to respond to the Committee's questions.

BIOGRAPHICAL SKETCH

DREW LEWIS
SECRETARY OF TRANSPORTATION

Drew Lewis, a business management specialist from Philadelphia, Pennsylvania, was sworn in as the nation's seventh Secretary of Transportation on January 23, 1981.

Nominated by President Reagan on December 11, 1980 Lewis won Senate confirmation January 22, 1981.

Before his appointment to the Reagan Cabinet as head of the Department of Transportation, Lewis had served since August 1980 as Deputy Chairman of the Republican National Committee.

Long active in Republican politics, he was deputy political director of the Reagan-Bush Campaign Committee during the 1980 election, was the Republican candidate for Governor in his home state of Pennsylvania in 1974, and a Republican National Committeeman since 1976.

For more than two decades, Lewis, 50, had a successful business career, chiefly as a management consultant and problem-solver engaged in revitalizing faltering companies. He headed his own consulting firm, Lewis & Associates in Philadelphia since 1975.

In the transportation field, Lewis served as one of two court-appointed trustees of the Reading Co. of Philadelphia. From 1971 to 1980, Lewis, in his role as a co-trustee, guided the reorganization of the bankrupt Reading Railroad and its eventual conveyance to the Consolidated Rail Corporation (CONRAIL). The Reading Co. was reorganized under the Federal court in December of 1980.

Earlier in his career, Lewis was hired by two major national companies for the purpose of turning around their declining operations. In both instances he succeeded -- as president and chief executive officer from 1970-1974 of Snelling and Snelling, Inc., a national personnel placement firm then located in Philadelphia; and as president and chairman of the board of Simplex Wire and Cable Co. of Boston from 1969 to 1972.

Lewis also served from 1960 to 1969 as vice president and assistant to the chairman of National Gypsum Co., Buffalo, New York, and as vice president of marketing of American Olean Tile Co., Inc., a wholly-owned subsidiary of National Gypsum.

Lewis began his career in 1955 with Henkels & McCoy, Inc., a Philadelphia general contractor specializing in the utilities field. He rose through the ranks of that $200 million firm to the position of production manager and member of the board of directors.

In addition, Lewis has served as a member of the Delaware River Port Authority, on the boards of the Academy of Natural Sciences and the World Affairs Council, member of the board of managers of his alma mater, Haverford College, as a trustee of Temple University, and as president of the board of trustees of the Central Schwenkfelder Church in Worcester, Pennsylvania.

He graduated in 1953 from Haverford College near Philadelphia and received his Master of Business Administration (MBA) degree from Harvard in 1955.

Lewis was born in Philadelphia on November 3, 1931. He is married to the former Marilyn Stoughton, who also is active in politics and was elected to the Pennsylvania House of Representatives from the 147th District for a two-year term in 1978 and re-elected in 1980.

The Lewises also share an interest in aviation. She is a pilot and he has a student pilot's license.

They have three children: a married daughter, Karen Lewis Sacks, 30, and two sons, Russell Shepherd Lewis, 27, and Andrew Lindsay Lewis IV, 25. The Lewises reside on a farm in Schwenksville, Pennsylvania, 30 miles from Philadelphia.

IMPACT ON TRANSPORTATION

Senator ANDREWS. Thank you, Mr. Secretary, for a good statement.

The committee, of course, is concerned about the budget and the overall spending levels. What would be the impact on transportation in this country if we held to the fiscal 1982 levels in fiscal 1983? What specific shortfalls might you envision?

Secretary LEWIS. Actually, if you stay with total 1982 budget authority in 1983 rather than the 1983 proposal, it would be an improvement from our standpoint of about $1.6 billion. It would actually give us about $600 million more in highways. It would give us about $300 million more in urban mass transit, but about $900 million less in the FAA which would be a serious deficit. It would give us about $600 million more in the Coast Guard if you consider the 1982 DOD appropriation.

So on balance, it would give us more money. The most serious flaw would be that if we are going to get on with the upgrading of the traffic control system, we have to start spending money for that in 1983.

Senator ANDREWS. Mr. Secretary, could you provide some line item detail for the record?

Secretary LEWIS. Yes, I had planned to do that. I just gave you some rough figures on the line items here.

Senator ANDREWS. I want to get a little bit more detail, so that we can look at it when we have to mark up because these committees have a habit of wanting to mark up in a little more detail than the overall broad figures.

Secretary LEWIS. In general terms, that is it. I will provide you a detailed answer to that question. The biggest problem we would have would be the imbalance of the way the money would be spread if we had to keep exactly the same budget as 1982.

[The information follows:]

IMPACT ON DOT APPROPRIATIONS OF A FREEZE AT FY 1982 LEVELS THROUGH FY 1983 BY CONTINUING RESOLUTION OR OTHERWISE

General Statement

In the DOT, budget authority, the usual medium of exchange in a continuing resolution, comes from three principal sources, i.e., appropriations, contract authority, and debt authority, offset by proprietary receipts. Relevant amounts of each are as follows ($ millions):

	FY 1982	FY 1983
Appropriations	$10,335	$ 9,957
Contract Authority	9,274	8,758
Debt Authority	878	---
Proprietary Receipts	-70	-277
Total	$20,417	$18,438

The typical continuing resolution addresses directly only the Appropriations portion of our total B.A.; contract authority is controlled by the "more restrictive" provision, putting obligation limitations into play, and debt authority and proprietary receipts being outside the appropriations process, are not addressed at all.

There follows a table which lists FY 1982 vs. FY 1983 appropriations and a second table which lists FY 1982 vs. FY 1983 obligation limitations by administration and account with marginal notes highlighting major problems which would be created by a freeze, assuming that this would be the way a freeze would be imposed. For these tables, we have assumed enactment of the FY 1982 level in the President's budget, including all supplementals, adding estimated pay supplementals, and assuming the Hollings Bill as the Coast Guard program supplemental.

Unless the Congress were to provide some flexibility in whatever resolution is enacted, there would be a number of technical problems and some major program impacts. Examples of the latter include: Railroad Branchlines, Conrail Labor, Urban Discretionary Grants, Washington Metro (unless folded into Interstate Transfers), FAA strike recovery and system rebuilding, Coast Guard Operating Expenses and Retired Pay (although a major excess of authority would exist in AC&I), OIG (although a technical solution is possible), and OST, particularly TPR&D.

Summary of Major Problems of Freeze By Continuing Resolution or Otherwise

APPROPRIATIONS

Administration/Appropriation		Significant Impacts of a Freeze*
Federal Highway Administration		
Motor Carrier Safety	--	No problem.
Highway Beautification	--	No problem.
Territorial Highways	--	No problem.
Railroad Highway Crossings	--	No problem.
Interstate Transfer Grants General Fund in 1982; Trust Fund in 1983	--	Major source -- $137M.
Highway Safety R&D	--	Minor shortfall -- $4M.
Appalachian Highways	--	Major shortfall of $80M only because FY 1982 credit would come in A.R.C. appropriation. Could be handled by language.
National Highway Traffic Safety Administration		
Operations and Research	--	Shortfall of $7M in BA but the increase over budget in the portion transferred from Trust Fund could offset $1M of this.

* Terms "source" and "shortfall" indicate FY 1983 Budget already below or above FY 1982 level respectively.

APPROPRIATIONS (Continued)

Administration/Appropriation		Significant Impacts of a Freeze*
Federal Railroad Administration		
Office of the Administrator	--	Apparent $8-1/2M shortfall but R&D in FY 1982 had about this much for Policy (now in OA) and an offset could be provided for.
Railroad Safety	--	$5M shortfall but major cut in ATIP program could absorb much of this.
Railroad Research	--	About a breakeven after FY 1982 Policy support is used to offset similar item in FY 1983 Office of the Administrator.
Rail Service Assistance	--	A shortfall of $17M primarily because branchlines were funded by carryover in FY 1982. Further shortfall would be created by addition of Union Station in 1983 ($4M) and need to offset MBRC proposed to be funded in OST in 1983 ($4M).
Conrail Labor Protection	--	A shortfall of $20M because major program in FY 1982 was financed by transfer of unobligated balances from USRA (no BA).
Commuter Rail	--	A net source of $60M could offset other FRA shortfalls with appropriate language.
Northeast Corridor	--	A net source of $55M.
Amtrak	--	A net source of $135M.
Alaska Railroad	--	A source of $6M assuming transfer this year to the State.

APPROPRIATIONS (Continued)

Administration/Appropriation		Significant Impacts of a Freeze*
Urban Mass Transportation Administration		
Research, Training, and Administrative Expenses	--	No problem.
Urban Discretionary Grants	--	Shortfall of $111M.
Non-Urban Formula Grants	--	Source of $69M.
Urban Formula Grants	--	Source of $350M.
Waterborne Demonstration	--	Shortfall - consumes $2M because of nonrecurring rescission.
Interstate Transfer Grants	--	Net source of $138M.
Washington Metro	--	Shortfall of $100M but could be folded into Interstate Transfers.
Federal Aviation Administration		
Operations	--	Major shortfall - $250M strike recovery.
Facilities, Engineering, and Development	--	Net source of $9M partially offsets RE&D increase.
Metropolitan Washington Airports	--	Net source of $12M due completion of Dulles access road funding. Need small O&M/Construction offset.

APPROPRIATIONS (Continued)

Administration/Appropriation		Significant Impacts of a Freeze*
Federal Aviation Administration (Cont'd)		
Facilities and Equipment	--	Major BA shortfall of $464M (but obligation gap is only about $141M, so FAA could get relief if allowed to go off full funding for a year).
Research, Engineering, and Development	--	$62M shortfall in BA and obligations would have adverse impact on computer replacement, etc.
U.S. Coast Guard		
Operating Expenses	--	Apparent $39M shortfall largely a result of transferring medical costs from DHHS.
	--	An additional shortfall of up to $49M could result from annualization of the Hollings bill.
	--	Yet another $31M shortfall could occur if the Governmentwide freeze caused users of polar icebreakers to renege on funding commitments.
Acquisition, Construction, and Improvements	--	A net source of $665M or $365M depending on how Congress credits FY 1982 DOD appropriation.
Alteration of Bridges	--	A net source of $8M.
Retired Pay	--	Shortfall of $57M may be partially ameliorated by deferring COLA if freeze extends to these costs.

APPROPRIATIONS (Continued)

Administration/Appropriation		Significant Impacts of a Freeze*
U.S. Coast Guard (Cont'd)		
Reserve Training	--	No problem.
Research, Development, Test, and Evaluation	--	No problem ($3M source).
Recreational Boating Safety	--	Shortfall - new start $5M.
Pollution Funds	--	No problem.
Maritime Administration		
Research and Development	--	$8M shortfall -- $5M of which could work back to CG as a shortfall in icebreaker funding.
Operations and Training	--	No problem.
St. Lawrence Seaway Development Corporation		
SLSDC Fund	--	No problem.
Office of Inspector General		
Salaries and Expenses	--	$10.5M shortfall -- would need special provision to allow for prior year offset in Highway Trust Fund.
Research & Special Programs Administration		
Research and Special Programs	--	$4M shortfall apparently manageable; impact would be on R&D.

APPROPRIATIONS (Continued)

Administration/Appropriation		Significant Impacts of a Freeze*
Office of the Secretary		
Salaries and Expenses	--	$5-1/2M shortfall includes $4M which could be charged back to FRA for MBRC; remainder would be an effective 5% cut due to price increases and assumption of MarAd costs.
Transportation Planning, Research, and Development	--	$4-1/2M shortfall - FY 1982 reduced level would continue another year.

Summary of Major Problems of Freeze By Continuing Resolution or Otherwise

OBLIGATION LIMITATIONS

Administration/Appropriation		Significant Impacts of a Freeze*
Federal Highway Administration		
Federal-Aid Highways	--	Major source of $400M.
Limitation, General Operating Expenses	--	No problem.
Highway-Related Safety Grants (§402 Grants)	--	Source of $10M, continuing a program proposed to be discontinued.
National Highway Traffic Safety Administration		
State and Community Highway Safety (§402 Grants)	--	Source of $16M (and an added transfer to Operations of almost $1M).
Federal Aviation Administration		
Airport Grants-in-Aid	--	No problem.
Maritime Administration		
Operating-Differential Subsidies	--	Source of $8M based on enacted 1982 level (no limitation).

* Terms "source" and "shortfall" indicate FY 1983 Budget already below or above FY 1982 level respectively.

AMTRAK FUNDING LEVEL

Senator ANDREWS. You are proposing a funding level of $600 for Amtrak, which is a reduction of $135 million from the 1982 level. Frankly our bill, as you know, went through with relatively little debate, the major part of the debate had to do with Amtrak.

Are you expecting Amtrak to continue to operate a national system, or will certain segments of Amtrak's existing system be terminated or face significant reductions in service.

Secretary LEWIS. Let me answer the last part of your question first. There are sections of Amtrak that we think should be eliminated, the cost/benefit does not justify their existence, the most significant of which would be the cardinal route which amounts to an excess of about $5 million which we think is totally unjustified.

Basically, for us to hit this $600 million level, Alan Boyd is going to have to see that certain things are accomplished.

First of all, we believe there are labor and management efficiencies you can make in Amtrak to the tune of about $75 million. If you recall, when we had the pressure on Conrail last year, the management and labor unions got together and saved $200 million. So we think that is one factor. Second, the State contribution in terms of the State assisted services we feel should go up about $24 million. Third, there are going to have to be some selected fare increases, and we are also assuming the deferral of the $100 million in interest expense. If you take this combination of things, Amtrak can live within the $600 million.

Senator ANDREWS. Mr. Secretary, not only can live, but can live as a national system?

Secretary LEWIS. Can live as a national system.

Senator ANDREWS. In other words, you are saying that under the progressively enlightened management of you and your team, Amtrak has effected enough savings and has become sufficiently upgraded so that it takes less Federal input to run the same number of trains nationwide?

Secretary LEWIS. That is correct, but I think the credit, if this is accomplished, should go to Alan Boyd because he is the one who is going to have to negotiate the labor efficiencies. As you know, the work rules on Amtrak are ludicrous. These things have to be accomplished. I think the Congress should put pressure on Amtrak and the unions to make that happen.

Senator ANDREWS. That is true, but you know anything that goes wrong under your domain is going to be blamed on you, so you might just as well take credit for those things which go right in your shop.

In the event that the legislation needed to reach these savings is not approved by the Congress, would you advocate a reduced service level, or would you support increased funding in order to keep Amtrak operating as a national system?

Secretary LEWIS. We feel at the present time, with the exception of a few marginal routes, that Amtrak is about the system it should be, assuming that we want a national railroad system which I believe, in terms of the national defense and the obvious wishes of Congress, is what we would like. I also might add, from the administration's standpoint, we are less optimistic than Alan Boyd that this will be a self-sufficient system. As one of the areas that we feel cannot be taken care of in terms of user fees, we would continue to support Amtrak. We would just like to see it be more realistic and to put on pressure to change some of these work rules.

Senator ANDREWS. Are you doing everything you can to provide the leadership to get that done?

Secretary LEWIS. Everything we can, we are trying to do.

HIGHWAY USER FEES

Senator ANDREWS. Mr. Secretary, in the next 15 years, approximately 216,000 miles of the existing primary roads in rural America will need resurfacing and about 10 percent of the Interstate Highway System needs resurfacing immediately.

In 1959, gasoline sold for 31 cents a gallon, and today it sells for $1.30 a gallon. The 4-cent-a-gallon user fee has been eroded by inflation until it is now worth less than 1 cent, while construction costs have risen 300 percent.

What is your personal opinion about what we should do about this deteriorating revenue base in order to properly address the highway needs which have become so evident?

Secretary LEWIS. Mr. Chairman, I have just left a Cabinet Council meeting where the Economic Council made a presentation on this specific point.

You look at transportation, assuming we can come up with ADAP legislation which would take care of the aviation system, we have two major problems in transportation. One is the tremendous deterioration of mass transit from the capital investment side. Those systems, in many cases, have been deteriorating for 50 years.

Second, the point you raise in terms of highway deterioration. In addition to what you indicated, we have about a $61 billion shortfall in bridge repairs. The recommendation that we have made to the Cabinet Council is that we increase by the equivalent of 5 cents in terms of gasoline user fees to fund both highways and mass transit, 4 cents at the pump and 1 cent coming out of increased fees on heavy trucks. If we do this, we feel we will have adequate funds to complete the Interstate and maintain it. As you know in some sections of the Interstate we are down to 30 miles an hour, so we have to get on with the maintenance. We ought to be able to complete it, maintain it, and have an adequate primary system, have money in terms of urban and rural roads to be returned to the States to spend as they see fit, and move on with our bridge program. In addition, we will be able to give twice as much back to mass transit in capital as we are taking away in operating. So we will really be doing something to greatly strengthen the infrastructure of transportation.

FEDERALISM CONCEPT IN TRANSPORTATION

I think the other point that should be made is that we will be able to advance the federalism concept because we think federalism can work in transportation. The problem is that the States are not going to take back these programs if we don't give the money with the programs, so that they have sufficient funds to see that the programs are adequately served. So I am concerned about that, and I have that recommendation in to the administration, and I would hope that at some time in the not too distant future, hopefully this year, we will be able to present that to Congress, with support of the Congress and the administration.

Senator ANDREWS. But, Mr. Secretary, one of the problems we get into, when we turn back to the States this kind of operation, is the fact that some areas, because they are less densely populated, have far fewer people to purchase the gasoline to run the highway system. It is just as important for the areas of the country that are more densely populated that they have a feeder web of highways in the rural areas.

If you turn this program back strictly on a basis of giving each State the revenues it raises from the Federal tax some States won't have the transportation density per mile and you are simply not going to get enough revenues to maintain each State's highways so you will then have a hyphenated group of individual State systems instead of a nationwide system.

That is the reason why we went to the Interstate Highway System in the first place under the Eisenhower administration. Now this administration is suggesting that we move away from that national system and go into a Balkanized system that is simply going to let it fall apart.

Secretary LEWIS. Positively not. I think what we have to do is to sit down with the various Governors and, obviously, with the Congress and be certain there are no winners and losers. As an example, I don't know what the situation is in North Dakota, but in Montana if they got back their gasoline user fee, they would just barely be able to maintain the signs on their highways.

Our position is that we have to keep the responsibility for interstate bridges, interstate construction, completion, and maintenance, and probably primaries and probably also bridges. Then I believe we have to work under the present system to see that sufficient moneys go back to the more rural States. What that amounts to is that some of the loser States will continue to be losers, and some that we call winners will continue to be winners, but we will not try to modify that formula.

Senator ANDREWS. Whether there are winners or losers, Mr. Secretary, the Nation needs this nationwide system, and you simply can't have it in a State like Montana, or North Dakota where the distances are great and the people are few.

Secretary LEWIS. I am suggesting that we continue to have that responsibility here in Washington.

Senator ANDREWS. I appreciate that, and I appreciate your specifically bringing it out because initially we haven't seen that. I think I know how you feel that is why I wanted to ask the question. I appreciate your answer.

I think it goes in line with the concept that President Eisenhower put forward so wisely a couple of decades ago. I am glad to hear that you support that and we are going to be looking for the types of initiatives coming out of your Department that will keep this program on track.

Secretary LEWIS. We are presently working with the Governors on that very point.

VARYING TYPES OF USER FEES

Senator ANDREWS. In the user fee category, the 1983 budget that you sent up envisions enactment of a number of user charges. Aviation and highway programs have a dedicated trust fund for the revenues generated by the systems' users. There is a difference, however, when it comes to the Coast Guard. Those fees proposed for users of Coast Guard services would be deposited into the general fund.

What is your position on general versus trust funds for user tax revenues, and why is there this discrepancy between the different modes of transportation within your own Department?

Secretary LEWIS. Actually, I would prefer trust funds from an operating standpoint. Historically, we have always had a highway user fee and we have had a highway trust fund, and the airport trust fund. In the Coast Guard situation, fundamentally they have been fully budgeted out of the general fund, therefore, if there were to be user fees, it was a consensus that this money should go back to the general fund. I would have no problem whatsoever if you had a specific trust fund for the Coast Guard built up out of these funds, and then reduced the amount that they were going to take out of the general fund. What it amounts to is that it is consistent with the President's philosophy of having those who benefit from the services pay for them, and letting the people who are paying for them know that the money is available for the services that they are receiving.

Senator ANDREWS. What assurances does the Coast Guard or the people who pay into this fund, have that the money will be used for Coast Guard purposes?

Secretary LEWIS. You have an alternative of either funding the Coast Guard out of the general fund, as we presently are doing, and your being satisfied, as I believe you were the other day, that we went back and reviewed the Coast Guard situation and put moneys back into the budget or to establish a trust fund.

The problem with establishing a trust fund for the Coast Guard is that you are going to have sufficient revenues to meet such a small percentage of the total needs. What it amounts to is, when you look at the recoveries we can get on Coast Guard user fees, even though 85 percent of its budget is nonmilitary, nonlaw enforcement, nondrug interdiction, or alien interdiction, you are not going to be able to recover that 85 percent that goes for navigational aids and things of that type.

Therefore, it seems to me that the Coast Guard is probably more secure relying on the general fund than a very small portion that could be raised through a trust fund. You can't charge enough Coast Guard user fees to fund the Coast Guard, whereas you can do that in highways and other user fees.

INCREASED COAST GUARD CAPABILITY

Senator ANDREWS. You did a great job in coming up at the special hearing that we had a couple of weeks ago on the Coast Guard. As you are aware, many Members of Congress are extremely interested in increasing the capability of the Coast Guard in drug enforcement activities.

What do you see as the potential trade off? I was just at a Canada-United States Interparliamentary Conference over the weekend and there was some concern raised there, between the enforcement of laws relating to illegal drugs and the enforcement of fishing laws and treaties? What kind of a trade off or shift is there going to be? Are we abandoning the one to take up the other?

Secretary LEWIS. Both are important, and you really can't abandon either one. We are trying to shift some resources around currently, as you know, because we are concerned about the need for greater drug interdiction. The bottom line is that we need both, and I don't think you can eliminate one for the other. So I don't see there being any substantial trade off.

I think what we have to do is make a determination as to how many checkpoints and the degree of drugs we want to interdict and at what cost. If we want to have increased benefits from the Coast Guard for drug interdiction, we have to increase the budget, increase the fleet, and increase the manpower.

Senator ANDREWS. In other words, I should not lead the witness, I guess, what you are saying, then, is that you don't think you are going to be cutting back on the enforcement of fishing laws and treaties, and the rescue of people in difficulty at sea in order to take care of the increased amount of attention that we have to deliver toward drug interdiction?

Secretary LEWIS. That is true. But, obviously, in all cases, whether it is drug interdiction, or fisheries enforcement, we have to look at our priorities and determine where these services are most needed.

Senator ANDREWS. That is true.

Secretary LEWIS. The changes we made in the Coast Guard, fundamentally, I believe, are management changes and will not have any serious impact in either enforcement of the fisheries laws or drug interdiction. Again, if you are asking, are we expanding total services, the answer is, "No."

COAST GUARD USER CHARGES

Senator ANDREWS. Although Coast Guard user charge legislation is not yet in final form, and you pointed out quite correctly that it can't cover the entire costs of the Coast Guard, what is the basis for seeking the collection of $200 million in 1983 and then raising it to $800 million 1 year later.

Do you think such a rapid phase in is something that can be tolerated? What is going to be the effect of these sums on the recreational and commercial users?

Secretary LEWIS. On the large boats used recreationally, it will be a significant increase. We are now in the throes of trying to put this together. In fact, I believe it is coming to my desk today and it will be coming up here shortly.

Essentially, this is a phase in and we feel that there are revenues out there that could be raised to the tune of $800 million, it is just that we did not want to shock the troops with too large an increase the first year.

Senator ANDREWS. You shocked some of these troops because I understand that under your original proposal you required the owner of a 16-foot rowboat to pay $110 a year. How did you arrive at that estimated fee schedule?

I hope you have taken a look at it and with your own wisdom have amended at least that part of it.

Secretary LEWIS. We have, and you will see some modifications in the legislation forthcoming.

Senator ANDREWS. Could you provide, at this point in the record, the modifications that you are recommending to this initial schedule which shocked, shall we say, the dinghy out of a number of people?

Secretary LEWIS. I believe that it is right now at OMB. I would prefer to have a consistent voice in the administration. We have submitted our recommendations to OMB and, with approval, I would like to see that we have a consistent voice, then I will submit them for the record.

Senator ANDREWS. That will be helpful because we are talking about Joe Six-Pack and his revolt against a tax on the product that he likes. To the fellow who goes out there to row his boat and do a little fishing, $110 a year is pretty darn high.

Secretary LEWIS. I agree.

Senator ANDREWS. So if you could provide how you arrived at the estimated fee schedule, what the rationale was, and why the changes, it would help the subcommittee a good deal.

[The information follows:]

DEPARTMENT OF TRANSPORTATION
U. S. Coast Guard
Estimated Coast Guard Expenditures by Appropriation 1/
Recoverable versus Non-Recoverable Under User Charge Proposal
(in thousands of dollars)

	FY 1983	Support Costs
Non-Recoverable Appropriations		
Acquisition, Construction, and Improvements	19,200	
Alteration of Bridges	...	
Retired Pay	336,000	
Reserve Training	50,094	
Research, Development, Test, and Evaluation	15,000	(2/)
National Recreational Boating Safety	5,000	
Pollution Fund	7,000	
Offshore Oil Pollution Compensation Fund	1,000	
Deepwater Port Liability Fund	1,000	
Miscellaneous Funds	80	
Total, Non-Recoverable Appropriations	434,374	
Recoverable Appropriation		
Operating Expenses by Program 3/		
Recoverable Program Costs		
Search and Rescue (Non-Life Threatening Potential)	14,600	(3,828)
Short Range Aids to Navigation	162,700	(42,545)
Radionavigational Aids	16,700	(3,530)
Domestic Icebreaking	13,300	(3,654)
Commercial Vessel Safety	84,950	(20,552)
Recreational Boating Safety	24,200	(6,416)
Port Safety and Security	35,150	(9,514)
Marine Environmental Protection	88,100	(21,713)
Subtotal, Recoverable Program Costs	439,700	(111,752)
Non-Recoverable Program Costs		
Search and Rescue (Life Threatening Potential)	287,500	(75,360)
Short Range Aids to Navigation	85,300	(22,305)
Radionavigational Aids	24,300	(5,136)
Commercial Vessel Safety	450	(108)
Recreational Boating Safety	21,900	(5,807)
Port Safety and Security	550	(149)
Marine Environmental Protection	1,500	(370)
Enforcement of Laws and Treaties	319,200	(83,106)
Marine Science	11,000	(3,067)
Polar Operations	35,000	(9,171)
Military Readiness	68,400	(17,659)
Bridge Administration	5,800	(1,377)
Subtotal, Non-Recoverable Program Costs	860,900	(223,615)
Other Non-Recoverable Costs		
Other Than Marine Users	209,700	(54,072)
Subtotal, Non-Recoverable Costs	1,070,600	(277,687)
Total, Operating Expenses	1,510,300	(389,439)

1/ This table reflects preliminary estimates and will change when new calculations are available.
2/ Not applicable - Non-Recoverable appropriations.
3/ FY 1983 Budget Estimates, based on FY 1980 Actual Data (Rounded).

SCHEDULE A - RECREATIONAL BOATING	Estimated FY83 Cost in 000's	
I. SERVICES		
a. Search and Rescue services of non life-threatening potential	$20,600	($10,500)
b. Commercial Vessel Safety services to investigate boating accidents	900	($ 450)
c. Recreational Boating Safety services of boating law enforcement, training of federal and state boarding officers, issuing permits and coordination of		

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	regatta patrols, liaison with states and safety organizations, and support of volunteer Coast Guard Auxiliary	43,900	($22,000)
d.	Port Safety and Security services to assure port, harbor and waterway safety	1,100	($ 550)
e.	Marine Environmental Protection services to assure compliance with federal regulations	3,000	($ 1,500)
	TOTAL	$69,500	($35,000)

II. DEMONSTRATION FEE SCHEDULE - ANNUAL FEE

Class	Number	Fee	Amount (000's)
Less than 20 feet	4,700,000	-	-
20 feet or over and less than 26 feet	700,000	$ 25	$17,500
26 feet or over and less than 40 feet	257,000	50	12,850
40 feet or over and not more than 65 feet	45,000	100	4,500
More than 65 feet	3,000	200	600
TOTALS	5,705,000		$35,450

III. DISCUSSION

a. Although recreational boats utilize buoys established under the short range aids to navigation program, no program costs have been shown since practically all the buoyage system has been justified for commercial purposes.

b. Search and Rescue program costs of life threatening potential cases have been eliminated from the recoverable costs. Costs of these cases are considered to be in the broad national interest and of a humanitarian nature.

c. Recreational boats of less than 20 feet length do not individually receive measurable Coast Guard services. They have been eliminated from the demonstration fee schedule. Demonstration fee schedule does not reflect recovery of all allocated costs but is considered reasonable in view of the number of boats excluded.

d. Demonstration fee schedules to reflect full recovery of approximately $2.3 million through fees from the manufacturers of recreational boats and safety equipment for which Coast Guard standards and certification is provided must be developed.

SCHEDULE B - COMMERCIAL, DOMESTIC INLAND

		Estimated FY83 Cost in 000's
I.	SERVICES	
a.	Short Range Aids to Navigation services which provide a network of manned and unmanned aids to navigation including lighted and unlighted buoys and structures along the inland waterways	$28,800
b.	Port Safety and Security services to assure port, harbor and waterway safety	2,100
c.	Marine Environmental Protection services of monitoring and inspections to assure compliance with federal law and regulations	5,200
	TOTAL	$36,100

II. DEMONSTRATION FEE SCHEDULE - ANNUAL FEE

Class	Number	Fee	Amount (000's)
a. Towboats - Less than 1000HP	2,520	$1,800	$ 4,536
- 1000 to 4999HP	1,500	3,600	5,400
- 5000HP and Over	160	7,200	1,152
Subtotal	4,180		$11,088

b. Barges	- Less than 1600GT	20,000	900	$18,000
	- 1600GT and Over	4,000	1,800	7,200
	Subtotal	25,000		$25,200
	TOTAL			$36,288

III. DISCUSSION

a. No search and rescue services have been allocated to inland towboats and barges.
b. Special purpose barges will also be subject to direct charges for certain inspections.

SCHEDULE C - FISHING FLEETS (FOREIGN AND DOMESTIC)	Estimated FY83 Costs in 000's	
I. SERVICES		
a. Search and Rescue services of non life-threatening potential	$ 7,000	($2,100)
b. Short Range Aids to Navigation services which provide a network of manned and unmanned aids to navigation included lighted and unlighted buoys and structures along the seacoasts	123,000	($37,700)
c. Radionavigation Aids services providing Loran C and radiobeacon electronic systems which furnish continuous, accurate, all-weather position fixing capability	35,000	($10,700)
TOTAL	$165,000	($50,500)

II. DEMONSTRATION FEE SCHEDULE - ANNUAL FEE

a. United States Flag

Class	Number	Fee	Amount (000's)
Less than 5GT	100,200	$290	$29,058
5 to 99GT	19,200	600	11,520
100 to 499GT	1,970	1,200	2,364
500 to 1499GT	200	4,500	900
1500GT and Over	-	9,000	-
Subtotal	121,570		$43,842

b. Foreign Flag

Class	Number	Fee	Amount (000's)
Less than 5GT	-	$290	-
5 to 99GT	-	600	-
100 to 499GT	450	1,200	$ 540
500 to 1499GT	450	4,500	2,025
1500GT and Over	450	9,000	4,050
Subtotal	1,350		$ 6,615
TOTAL	122,920		$50,457

III. DISCUSSION

a. Demonstration fee schedule does not reflect recovery of all allocated costs but is considered reasonable in view of the overall economic condition of the fishing fleets.
b. Both U.S. and foreign flag fishing fleets are treated in a similar manner.
c. Foreign fishing fleet licenses have been reviewed to minimize any chance of double counting. Vessels with fishing licenses in two or more areas have been only counted once.

SCHEDULE D - COMMERCIAL, DOMESTIC COASTAL AND INTERNATIONAL		Estimated FY83 Cost in 000's
I.	SERVICES	
a.	Search and Rescue services of non life-threatening potential	$ 2,000
b.	Short Range Aids to Navigation services which provide a network of manned and unmanned aids to navigation including lighted and unlighted buoys and structures along the Great Lakes and seacoasts.	96,200
c.	Radionavigation Aids services providing Loran C, Omega, and radiobeacon electronic systems which furnish continuous, accurate, all-weather position fixing capability	6,000
d.	Domestic Icebreaking services to meet reasonable requirements of commerce in the rivers, bays and sounds as well as in the Great Lakes during the period from 1 December to 15 January.	7,500
e.	Port Safety and Security services to assure port, harbor, and waterway safety through monitoring, boarding, inspection, and regulatory programs	20,800
f.	Marine Environmental Protection services of monitoring and inspection to assure compliance with federal law and regulation	52,200
	TOTAL	$184,700

II. DEMONSTRATION FEE SCHEDULES

1. International Trade - U.S. and Foreign Flag Vessels

	Gross Tons	Fee	Amount (000's)
Tonnage Fee	752,200,000	$0.20	$150,440

2. Domestic Coastal Trade - U.S. Flag Vessels

Class	Number	Annual Fee	Amount (000's)
Less than 5GT	0	$ 750	$ 0
5 to 99GT	2,373	1,500	3,560
100 to 499GT	802	2,000	1,604
500 to 4999GT	63	15,000	945
5000 to 22,999GT	280	30,000	8,400
23,000 to 49,999GT	62	45,000	2,790
50,000 and Over	24	60,000	1,440
Subtotal	3,604		$18,739

3. **Domestic Coastal Trade - Tug/Towboats and Barges**

a. **Tug/Towboats**

Class	Number	Annual Fee	Amount (000's)
Less than 1000HP	1,890	$1,800	$ 3,402
1000 to 4999HP	860	3,600	3,096
5000HP and Over	120	7,200	864
Subtotal	2,870		$ 7,362

b. **Barges**

Class	Number	Annual Fee	Amount (000's)
Less than 1600GT	1,800	$ 900	$1,620
1600 to 9999GT	2,400	1,800	4,320
10,000GT and Over	10	15,000	150
Subtotal	4,210		$6,090
TOTAL			$13,452

4. Special

a. Mobile Offshore Drilling Units (MODU)

Class	Number	Annual Fee	Amount (000's)
MODU	580	$1,000	$580
		TOTAL	$183,211

III. DISCUSSION

a. Limitations of the gross tonnage fee in international trade is similar to limitations of the current tonnage tax administered by Customs (i.e., 5 voyages per year cap).
b. Vessels and barges in both domestic and international trade are subject to the greater of the annual fee or the tonnage fee.
c. Tug/Towboats annual fees are similar to those for towboats in the domestic inland trade.
d. Commercial Great Lakes trade included in appropriate fee schedule except for domestic icebreaking seasonal surcharge which is shown in Schedule E.
e. Vessels included in the Special category receive only periodic benefits of Coast Guard services.

SCHEDULE E - GREAT LAKES SEASONAL ICEBREAKING SURCHARGE

	Estimated FY83 Cost in 000's
I. SERVICES	
a. Domestic Icebreaking services to the Great Lakes commercial trade during the period 16 January through 31 March provided on a ship day basis	$5,800

II. DEMONSTRATION FEE SCHEDULE

a. Domestic Ice Operations Units

Vessel Class	# of units	"Effectiveness" Rating	Seasonal Availability	# days Available	Available Unit-days
MACKINAW	1	10	9 days of 10	67.5	675
WTGB	5	4	8 days of 10	60	1200
WLB	5	2	7 days of 10	52.5	525
TOTALS	11				2400

b. Calculation of User Charges

Amount to be recovered = $5.800M
Available Unit-days = 2400 $2416 per unit-day

c. Application of User Charges

Users would be charged on the basis of unit-days utilized, e.g., a daylong assist by MACKINAW would equal 10 unit-days. The charge levied on the user would be: 10 X $2416 = $24,160.

A "day" would be of specified length (16 hours) and would encompass the total time an icebreaker is underway for an assist. 1/4 day would be the smallest unit recorded.

III. DISCUSSION

a. The Great Lakes Seasonal Icebreaking surcharge is an additional charge placed on commercial vessels during the normally severe seasonal period between 16 January and 31 March for specific icebreaking services. The costs of the service provided are related to the type of icebreaker and the time used in icebreaking.

b. All other demonstration fees for recreational boats as well as fishing and commercial vessels are shown in other appropriate fee schedules.

SCHEDULE F - SERVICES TO COMMERCIAL VESSELS, MERCHANT VESSEL PERSONNEL, AND FACILITIES	Estimated FY83 Costs in 000's
1. COMMERCIAL VESSELS	
I. SERVICES	
a. Vessel Documentation services related to the issuance of documents to U. S. vessels, which affords those vessels the rights and privileges of a vessel of the United States.	$ 29,100
b. Vessel Admeasurement services to determine gross and net tonnages, which affect how national inspection laws and various customs and canal transit duties will apply to vessels.	7,000
c. Vessel Inspection services to assure an acceptable level of vessel safety aboard U.S. vessels, accomplished through examination and approval of vessel plans, inspection of the vessel during construction, and periodic inspections after the vessel enters service.	28,000
TOTAL	$ 64,100

II. DEMONSTRATION FEE SCHEDULES

a. Documentation of Vessels

Class	Number	Fee	Amount (000's)
All transactions (Includes: Issuance, endorsement, recording of title, changes)	50000	$600	$ 30,000
TOTAL	50000		$ 30,000

b. ADMEASUREMENT OF VESSELS

Class	Number	Fee	Amount (000's)
Simplified Yachts	8500	$ 120	$ 1,020
Simplified SPC	3000	120	360
Simplified NSPC	1700	120	204
Non-self Propelled	1000	600	600
Less than 75 GT	500	840	420
75 to 99 GT	340	3,000	1,020
100 to 174 GT	420	1,560	655
175 to 199 GT	200	3,720	744
200 to 274 GT	70	3,000	210
275 to 299 GT	60	4,680	281
300 to 499 GT	40	6,720	269
500 to 999 GT	40	8,640	346
1000 TO 3999 GT	20	14,520	290
4000 GT and Over	50	25,200	1,260
TOTAL	15,940		$ 7,679

SPC - Self-Propelled Commercial Vessel
NSPC - Non-self Propelled Commercial Vessel
GT - Gross Tonnage

c. VESSEL INSPECTION

(1) Initial Inspection for Certification

Class	Number	Fee	Amount (000's)
Small Passenger	260	$ 10,800	$ 2,808
Passenger	12	84,000	1,008
Oceanographic	0	45,000	0
Nautical SS	0	264,000	0
C/V Less than 300 GT	100	10,800	1,080
C/V 300-19999 GT	6	24,000	144
C/V 20000 GT +Over	9	36,000	324
T/V Less than 1000 GT	3	12,000	36
T/V 1000-19999 GT	2	30,000	60
T/V 20000-125000 GT	3	36,000	108
T/V 125000 GT +Over	0	48,000	0
C/C Less than 2000 GT	0	36,000	0
C/C 20000 GT +Over	5	42,000	210
Tank Barge O+D	240	19,200	4,608
Seagoing Barge	65	2,400	156
MODU	50	30,000	1,500
Subtotal	755		$ 12,042

(2) Inspection for Certification

Class	Number	Fee	Amount (000's)
Small Passenger	1300	$ 840	$ 1,092
Passenger	45	4,680	211
Oceanographic	9	3,120	28
Nautical SS	7	6,960	49
C/V Less than 300 GT	250	1,320	330
C/V 300-19999 GT	275	4,320	1,188
C/V 20000 GT +Over	30	5,280	158
T/V Less than 1000 GT	30	2,520	76
T/V 1000-19999 GT	60	4,560	274
T/V 20000-125000 GT	60	5,280	317
T/V 125000 GT +Over	1	6,240	6
C/C Less than 2000 GT	4	4,680	19
C/C 20000 GT +Over	5	5,520	28
Tank Barge O+D	2,200	840	1,848
Seagoing Barge	420	720	302
MODU	100	4,200	420
Subtotal	4,796		$ 6,345

(3) Reinspection

Class	Number	Fee	Amount (000's)
Small Passenger	2,600	$ 600	$ 1,560
Passenger	135	2,280	308
Oceanographic	8	1,680	13
C/V Less than 300 GT	250	840	210
C/V 300-19999 GT	275	2,640	726
C/V 20000 GT +Over	30	2,880	86
T/V Less than 1000 GT	30	1,440	43
T/V 1000-19999 GT	60	2,400	144
T/V 20000-125000 GT	60	2,880	173
T/V 125000 GT +Over	1	3,360	3
C/C Less than 20000 GT	4	2,760	11
C/C 20000 GT +Over	5	3,120	16
Tank Barge O+D	2,200	480	1,056
Seagoing Barge	420	480	202
MODU	100	2,280	228
Subtotal	6,178		$ 4,779

(4) Drydock Examination

Class	Number	Fee	Amount (000's)
Small Passenger	2,600	$ 360	$ 936
Passenger	90	2,520	227
Oceanographic	9	1,920	17
Nautical SS	4	2,880	12
C/V Less than 300 GT	225	720	162
C/V 300-19999 GT	275	2,880	792
C/V 20000 GT +Over	30	2,880	86
T/V Less than 1000 GT	30	1,560	47
T/V 1000-19999 GT	60	3,360	202
T/V 20000-125000 GT	60	3,840	230
T/V 125000 GT +Over	1	5,760	6
C/C Less than 20000 GT	4	3,600	14
C/C 20000 GT +Over	5	4,320	22
Tank Barge O+D	1100	1,080	1,188
Seagoing Barge	420	840	353
MODU	100	3,360	336
Subtotal	5,013		$ 4,629
TOTAL	16,742		$ 27,795

SS - School Ship
C/V - Cargo Vessel
MODU - Mobile Offshore Drilling Unit
GT - Gross Tonnage
T/V - Tank Vessel (Category includes Bulk Carriers
D - Oil Barge
C/C - Chemical Carrier
O - Chemical Barge

III. DISCUSSION

a. In June 1981, the Coast Guard and the American Bureau of Shipping signed an agreement which provides for the acceptance of ABS plan review and inspection of certain items on vessels under construction which are to be classed by ABS and certificated by the Coast Guard. This initial delegation comprised the first phase of a continuing plan to delegate certain CVS inspection and plan review functions to ABS. The second phase of this agreement is expected to be completed by 1 April 1982.

b. On 1 February 1982 a further agreement was signed with the American Bureau of Shipping allowing for the acceptance of their tonnage admeasurements by the Coast Guard.

2. MERCHANT VESSEL PERSONNEL

I. SERVICES

a. Merchant Vessel Personnel services to insure that those Merchant Marine Personnel required by law to hold a license or certificate are highly qualified.	$19,400
TOTAL	$19,400

II. DEMONSTRATION FEE SCHEDULE

Class	Number	Fee	Amount (000's)
Originals and Endorsements			
Master/Mate	3,990	$ 480	$ 1,915
Engineer	4,120	480	1,978
Pilot	960	600	576
Operator (MBO, IN, O)	9,320	480	4,474
Towboat Operator	2,940	600	1,764
Staff Officer	160	240	38
Radio Officer	70	240	17
MMD Entry Rating	19,980	120	2,398
MMD Exam Required	6,440	480	3,091

RENEWALS

Deck (All)	9,540	240	2,280
Eng/Others	4,960	120	595
Duplicate MMD	8,000	120	960
TOTALS	70,480		$ 20,095

MBO - Motorboat Operator License
IN - Inland Operator License
O - Ocean Operator License
MMD - Merchant Mariners Document

III. DISCUSSION

a. Licenses are issued for a period of five years. Merchant Mariners Documents are issued permanently with no renewal required.

b. The initial fee for each license or certificate includes all elements attendant to issuance, including the cost for a retest of a failed examination.

3. FACILITIES

I. SERVICES

a.	Fixed offshore structures-inspection services to ensure compliance with safety standards related to lifesaving and firefighting equipment and standards		$ 900
b.	Terminals - Port Safety and Security services including approval of operating manuals, periodic inspections to ensure compliance, and monitoring of cargo transfer of cargoes of particilar hazard		11,700
c.	Terminals - Marine Environmental Protection services including periodic inspections, monitoring of cargo transfer to ensure compliance with federal law and regulations, and overall supervision and monitoring of pollution incidents		29,200
		TOTAL	$41,800

II. DEMONSTRATION FEE SCHEDULE

a. Fixed Offshore Structures - Annual Fee

Transaction	Number	Fee	Amount (000's)
Annual Inspection	600	$1,560	$ 936

b. Terminals

1) Initial Approval - One Time Charge

	Number	Fee	Amount (000's)
New Starts	100	$1,000	$ 100

2) Liquid Terminals - Annual Fee

a) Handling less than 250 BBL. Vessel

	Number	Fee	Amount(000's)
Marinas	6,800	$120	$ 816
Other Comm.	750	120	90
Subtotal	7,550		906

b) *Greater than 250 BBL Vessel*

	Number	Fee	Amount(000's)
Small	750	$1,800	$ 1,350
Medium	375	3,600	1,350
Large	225	14,400	3,240
Subtotal	1,350		$5,940

3) General Cargo Handling only Dangerous Cargo - Annual Fee

	Number	Fee	Amount(000's)
Small	2,000	$ 600	$1,200
Medium	1,000	1,200	1,200
Large	450	4,800	2,160
Subtotal	3,450		$4,560

4) Cargo of Particular Hazard - Each Incident

	Number	Fee	Amount (000's)
No Permit (Liquid)	25,000	$ 650	$16,250
Written Permit (Dry Bulk) (Oxidizing Agent)	5,000	1,950	9,750
Written Permit (Package) (Expl A, Radioactive, Oxidizing)	850	3,900	3,315
Subtotal	30,850		$29,315
SUBTOTAL			$40,821
TOTAL			$41,757

III. DISCUSSION

a. Random periodic inspections of both offshore structures and terminals are conducted to assure compliance with federal law and regulations

b. Terminals have been classed as small, medium, and large by a combination of throughput, numbers and complexity of transfers, and workload measures.

SCHEDULE G - INDIRECT CHARGES

COSTS RECOVERABLE BY INDIRECT CHARGES ($ in 000's)

	A Recreational	B Inland	C Fishing Fleets	D Commercial Domestic & International	E Great Lakes Seasonal Domestic Icebreaking Surcharge	Totals
		- Towboats - Barges	- U.S. Flag - Foreign Flag	- Internatioanl - Foreign & U.S. Flag - Domestic Coastal - U.S. Flag - Tug/Towboat - Barge - Special		
Search and Rescue..................	$ 10,500	$ -	$ 2,100	$ 2,000	$ -	$ 14,600
Short Range Aids to Navigation.....	-	28,800	37,700	96,200	-	162,700
Radionavigational Aids.............	-	-	10,700	6,000	-	16,700
Domestic Icebreaking...............	-	-	-	7,500	5,800 (1)	13,300
Commercial Vessel Safety...........	450 (2)	-	-	-	-	550
Recreational Boating Safety........	22,000 (2)	-	-	-	-	24,200
Port Safety and Security...........	550	2,100	-	20,800	-	23,450
Marine Environmental Protection....	1,500	5,200	-	52,200	-	58,900
Subtotal............	$35,000					
	2,300 (2)					
TOTAL..........	$37,300	$36,100	$ 50,500	$184,700	$5,800 (1)	$314,400

Note: (1) Direct Fee for Great Lakes Seasonal Domestic Icebreaking Surcharge.
(2) The remaining $100 and $2,200 will be recovered thru direct fees from manufac recreational boats and safety equipment.

SCHEDULE C - DIRECT CHARGES

COSTS RECOVERABLE BY DIRECT CHARGES

	F1 Vessel Services			F2 Personnel Services	F3 Facilities		
	a. Vessel Documentation	b. Vessels Admeasurements	c. Vessel Inspection	Personnel Licensing Certification	Fixed Offshore a. Structure Inspection	b. Terminals	Total
Commercial Vessel Safety	$29,100	$7,000	$28,000	$19,400	$900	-	$84,400
Port Safety and Security	-	-	-	-	-	$11,700	11,700
Marine Environmental Protection	-	-	-	-	-	29,200	29,200
TOTALS	$29,100	$7,000	$28,000	$19,400	$900	$40,900	$125,300

AIRPORT AND AIRWAY TRUST FUND

Mr. Secretary, On the airport and airways trust fund, according to the Department's figures, revenues in the airport and airways trust fund would total approximately $2.8 billion in 1983. Approximately $2.3 billion, or 83 percent of these revenues, would come from the passenger ticket tax, that is, say, the commercial aviation sector.

How do you justify this division of the burden of user fees considering that your projections show that most of the growth will be in general aviation and that you are proposing to remove grant eligibility from 21 major airports around the United States that primarily serve these commercial aviation users?

Secretary LEWIS. First of all, there is a combination of three groups that fundamentally pay for FAA facilities and services: commercial, military, and general aviation. Your point is well taken.

Senator ANDREWS. Is there a direct transfer, Mr. Secretary, from the military to your shop for their use of the facilities?

Mr. DERMAN. You mean the 14 percent?

Senator ANDREWS. Yes.

Mr. DERMAN. We just provide the service.

Senator ANDREWS. I know that.

Secretary LEWIS. The question is, Do we get reimbursed?

Senator ANDREWS. The Secretary just pointed out that there are three groups that pay, the commercial, the military, and private.

Secretary LEWIS. I am getting two answers, two different answers. May I provide the answer to that for the record in writing?

Senator ANDREWS. We are willing to hear what you can provide now.

Secretary LEWIS. Essentially, the point I was going to make was, with the combination of the various modes paying for this, I believe the way this works is that there is not a direct military reimbursement, but commercial and general aviation actually pay for 85 percent of the system. Whether or not the other 15 percent should continue to come out of the general fund, that is, out of our budget, or become a direct military reimbursement from an accounting standpoint, is a technical question which we have not chosen to address at the present time.

What essentially is happening, commercial aviation under our proposal will pay more than its fair share of the cost of carrying the air support system. I have met with a number of the airlines at the ATA last week. I have also met with general aviation. We feel we are recommending a general aviation fuel tax about as high as it is realistic to have imposed. We have almost the same problem with the very small airplane pilot as we have with the recreational boat user. From a political standpoint, we don't believe we can kick the general aviation costs any higher than we are recommending. The other side of it is that the need is so great that the impression I have, at least, is that commercial transportation is satisfied to pay more than its share to make sure that we do have safe skies and adequate airports.

As far as the defederalization is concerned, that is a matter still up for grabs. As you know, in the Senate there is very strong feeling about defederalization and having these airports operate on their own. There is some disagreement in the House. From the Department of Transportation's standpoint, we care less about federalism than we do about seeing that we have adequate airports in terms of your major airports, sufficient funds for reliever airports, and sufficient moneys, which would be somewhere between $9 and $10 billion, to upgrade the entire traffic control system.

EMPLOYEE FURLOUGHS

Senator ANDREWS. Mr. Secretary, we have been hearing a great deal about FAA employee furloughs. Recently we heard that there may be Coast Guard furloughs. As a matter of fact, yesterday morning's paper interviewed some Government employees on furloughs.

Will there be any furloughs this year, and what actions are you taking to operate within your funding and avoid furloughs?

Secretary LEWIS. There will be no furloughs in the Coast Guard. We are moving moneys around so that we do not require furloughs.

The problem in FAA is, as the budget was passed, we were required to take across-the-board cuts, and the resulting shortfall in operations may require us to have furloughs. We feel that these furloughs can take place without affecting the safety of the airways. We are not pleased with the furloughs. The shortfall amounts to about $20 million, and I am working with the Department of Defense because the cost of the shortfall, which has arisen because of this, could be picked up by them if they did not require us to reimburse them for salary costs of the controllers they have loaned us during the traffic controller problem. We are working on it. We felt that it was only fair to the employees to indicate our concern. The notice that went out from the FAA talked about 12 days. We feel that it will be considerably less than that. We anticipate now, Don informs me, 6 to 8 days. We are still working at ways to not have the furloughs, but again we have budget constraints and for that reason we have considered meeting the budget constraints through furloughs as one alternative.

RECOVERY SCHEDULE FOR AIR TRAFFIC CONTROL SYSTEM

Senator ANDREWS. What percentage of the people you intend to get back running the Nation's airways, do you have back after this strike? What percentage do you anticipate to have back at the end of this year?

Secretary LEWIS. We have submitted a schedule on the rebuilding of the system. At the time of the strike of August 3, we said that we would get it rebuilt within 21 months in terms of being able to handle 100 percent of the traffic. That does not mean that the system will be at 100 percent because we will still have some furloughed pilots working with us and we will still have some military working with us. But we will meet these dates. We are estimating that as of September 1, we will be 100 percent of air cargo, 100 percent international, and 91 percent domestic.

Senator ANDREWS. Ninety-one percent operational, or 91 percent of the people you need in place to be 100 percent operational?

Secretary LEWIS. Ninety-one percent operational. In terms of people, we will be, again in terms of fully trained people, no military on the job, no furloughed pilots, no supervision doing any scope work, we are talking a longer time period. But we will be 100 percent operational either at the end of next year or in the spring. It is really a question of whether you gamble on a very severe winter like we had this winter, or you wait until daylight saving time in 1984 to go to 100 percent.

Senator ANDREWS. You feel that you are keeping up with the original schedule you gave us?

Secretary LEWIS. We are on target. As a matter of fact, we are slightly ahead, but we don't want to talk too much about that in case there is any slippage. We are concerned about retirements, and we are also concerned about the fact that we can't get our pay package for these people through the House. We are working on that.

AIR TRAFFIC CONTROLLERS' PAY PACKAGE

Senator ANDREWS. Mr. Secretary, if the air traffic controller benefits legislation were not to be retroactive, would you not need the $57 million which assumes benefits back to August 3, 1981?

Secretary LEWIS. If you take the $57.4 million package, that was actually assigned for the air traffic controller package. If that were modified congressionally, I believe that about $27 million—$26.7 million exactly, but let's say, $27 million roughly—would be assigned for retroactive pay. If $19 million of that were taken as an offset to defer the furloughs, then we would still have $8 million for retroactive pay. That is certainly one of the alternatives that could be considered. My concern is whether we will get the pay package as we are having serious problems in the House subcommittee.

EFFECT OF FURLOUGHS ON AIR TRAFFIC CONTROL SYSTEM

Senator ANDREWS. How do you explain to the general public out there, particularly to the people who work in your shop, that they are being furloughed when you are this far behind in the number of people you need to bring onboard?

Secretary LEWIS. Because the people that we are furloughing are not controllers. The people that we are furloughing are the support side of that staff and, because of the fewer controllers, we feel we can use less support staff on a sporadic basis, which is going to be a day here and a day there. It is not going to be a layoff automatically of all these people all at the same time.

Senator ANDREWS. None of the people that are being furloughed are people who work in the towers and control the airways?

Secretary LEWIS. No controllers are being furloughed. There are no controllers on our list.

Senator ANDREWS. Or none of the supervisors who have been filling in as controllers?

Secretary LEWIS. Some supervisors, but again we now have gotten the system to the point where we have considerably reduced the hours, and there are very few supervisors working as controllers.

Senator ANDREWS. But if you put a supervisor into a tower and he handles the tasks that bridge the gap for you, and then you tell him that he is going to be furloughed 2 months later, how does that sit?

Secretary LEWIS. We have talked to the people in the FAA, and obviously this is not something they are delighted with and nor am I. Here again, these are the constraints that we have financially, and I am required to live within those constraints.

Senator ANDREWS. If you need bodies, and these people are able to function as controllers, why are they, then, being furloughed since they have been functioning, in a sense, as a controller?

Secretary LEWIS. Any supervisors that are functioning as controllers, in the time that they are functioning as controllers, will not be furloughed. All centers and towers are exempt from furlough.

Senator ANDREWS. But if a supervisor has been functioning, let us say, 50 percent of his time as a controller, then you turn around and furlough him out of the other 50 percent of his time.

This is just a plain farmer talking, but why wouldn't it make more sense, instead of furloughing him out of there, to take the 5 percent out of his normal base stuff and transfer that into controller, and get more control operator hours out of him?

Secretary LEWIS. I have no objection to transferring the money if we get the $57.4 million approved. I am not arguing with you.

Senator ANDREWS. If the point is that you are not able to add more controller hours because you have a shortage of money, I don't think that is true.

Secretary LEWIS. Maybe I am confusing you with what I am saying. We are moving ahead with our rebuilding of the system, our training at Oklahoma City, and bringing controllers aboard. So there is no issue of moving on controllers.

What we are doing is taking noncontroller personnel, nontower, and center personnel, and furloughing them for somewhere between 6 and 8 days over the next 8 months.

Senator ANDREWS. Let's walk through this a little more slowly.

Secretary LEWIS. All right.

Senator ANDREWS. You did say a moment ago that you are furloughing some people who work part-time as air traffic control operators.

My point was that instead of furloughing them on the portion of their time they spend as nonoperators, why not have them spend, say, 5 percent if that is the furlough time, 5 percent less of their time in the nonoperator work. Let them use that time for additional hours in the tower.

They, then, benefit by staying on the full-paid scale because they have given you the benefit of their ability to step into the control tower. In effect, what you are getting, Mr. Secretary, is many more hours of control tower operation plus, I think, you are patting on the back these people who helped so much in keeping the system going.

Secretary LEWIS. We feel, with the balance of personnel and the manner in which the furloughs are being made, that we have done it in an equitable way.

As to your specific question, I will have to check with the FAA.

Senator ANDREWS. But there is no shortage of funds for doing something like that? In other words, you don't have any shortage of funds if someone has been working part-time in the control tower, and his normal job keeps him out, that his furlough time could be adjusted to additional working hours in the tower?

Secretary LEWIS. Except, again, we feel that we have certain responsibilities, management responsibilities, and we feel that we can have some slippage there, and that we do have an adequate number of these hours scheduled in the towers.

Senator ANDREWS. If you would provide more details for the record the committee would appreciate it. It is an intriguing thing that you have just said. You told the committee that you feel you have an adequate number of work-hours in the towers now, and yet 5 minutes ago you said that you were not up to 100 percent of your ability.

Secretary LEWIS. I want to correct something, for the record, which I stated earlier.

John Fowler informs me that if a person is on location where any of his time is served as a controller, that person is not being furloughed. So I provided inaccurate information.

Senator ANDREWS. That is the point that I was driving at.

Secretary LEWIS. I provided inaccurate information in that regard.

Senator ANDREWS. That is why we got into it deeper when you answered the question the way you did because it just abused my sensitivities. I appreciate your correction. I did not think your shop was doing that, Mr. Secretary. I have the utmost confidence in you.

Secretary LEWIS. You may know more about my shop on that point than I did.

Senator ANDREWS. We just want to make sure you are kept up to speed.

MASS TRANSIT FUNDING

On mass transit, we have heard several different scenarios on the future of mass transit funding, including reductions in operating subsidies, the institution of block grants, and now new federalism has been proposed.

What are your plans with regard to these three items, and what do you see as the future of the mass transit program?

Secretary LEWIS. In mass transit, again in the proposal we submitted today to the Cabinet Council, we are recommending an equivalent of 1 cent of the user fee coming from gasoline to be diverted into mass transit. If we are successful in that, we will be putting back into the system twice as much money in capital expenditures as we are eliminating in operating assistance. We feel, again in terms of the operating grants, that we have to force local communities to accept that responsibility and to provide a dedicated tax source along with the farebox to provide the needed revenues. As an example, in a bus situation, we put up 80 percent of the cost of a bus, the State government puts up 16.5 percent, and the local community gets a bus for 3.5 percent. We figure that the farebox and a local dedicated tax source should be able to provide the driver, the maintenance, and the fuel to operate that bus. That is the concept that we have from an operating standpoint.

In terms of capital grants, there is no question that we are providing inadequate funds to restore what has been a deteriorating mass transportation system, and that is why I have the recommendation I have to the administration with the hope that we can get not only their support, but the support of Congress.

INTERSTATE TRANSFER GRANTS

Senator ANDREWS. Mr. Secretary, the subject of interstate transfer grants is one of the more popular subjects that we discuss in this committee. There are more Senators that come to us with pleas for interstate transfer grants than almost anything else, even my good friend and colleague from the State of Florida. Too bad we don't have an interstate transfer grant out in North Dakota.

We have a several billion dollar outstanding commitment to the States and localities for interstate withdrawal projects, and your request this year for highway withdrawal funding is only $150 million. How do you plan to meet this escalating commitment, and I think you have to regard it as a commitment, with such a small funding level?

Secretary LEWIS. Again, the overall fiscal constraints have put us where we will be well into the 1990's by the time these program entitlements can be funded, and without additional revenues it is a matter of priorities. We feel that the top priority should be to complete the Interstate itself and see it maintained, particularly in light of the fact, as I said, we have some areas of the Interstate where we are down to 30 to 35 miles an hour.

Senator ANDREWS. Should the existing withdrawals be devaluated by a standard percentage?

Secretary LEWIS. Should be devaluated, do you mean reduced?

Senator ANDREWS. Yes.

Secretary LEWIS. I don't think you can reduce them much beyond the present level we have, if we are going to have any program at all.

Senator ANDREWS. I am suggesting devaluating the amount of the commitment.

Secretary LEWIS. These programs that we have reviewed, and there may be some more that should be reviewed, and maybe we should reconsider and reduce the commitment.

Senator ANDREWS. Or they could be deescalated to their value when first withdrawn?

Secretary LEWIS. Again, if we talk roughly the money going into transit and highway interstate transfers, that is going to be a total this year of about $550 million, $400 million going into transit. That would take us a little over 10 years, or about 10 years with a $5.4 billion entitlement presently required in interstate transfer. So we are talking about 10 years.

WASHINGTON METRO FUNDING

Senator ANDREWS. Mr. Secretary, with regard to funding construction of the Washington area Metro system with Stark-Harris funds, it is my understanding that the Department of Transportation must first certify that all three signatories have a source of stable and reliable funding available. What is your assessment of their funding sources?

Secretary LEWIS. Right now, we feel that it is inadequate. Virginia is only covering about 42 percent of the requirement that they should meet. I guess Maryland would be up to about 75 percent. The District of Columbia is up to, I believe, 100 percent.

We feel that there needs to be additional legislation for us to feel comfortable in terms of providing Stark-Harris money. Obviously, we are supportive of Metro, and we want it to move ahead. I have notified specifically Virginia. As you know they are reorganizing their State with a new Governor, hopefully they are going to come up with the funds needed. We don't want to hold back Metro, and we are going to bend over backward to try to justify the outlays of these funds. Again, as you know, by the legislation, we have an obligation to the Congress to support the intent of your requirements.

NONURBAN FORMULA GRANTS

Senator ANDREWS. Under the category, nonurban formula grants, why are you requesting no new funding for nonurban formula grants?

Secretary LEWIS. Mr. Derman will answer that.

Mr. DERMAN. Again, Senator, this basically is part of the overall legislative approach. We felt that for the section 18 nonurban formula grant program, along with our commitment to phase out operating subsidies, it was consistent to request no additional funding in 1983. It is our estimate that there are some 43 million dollars' worth of carryover funds from previous years in this area that can be utilized for the program, and the grantees that would ordinarily get new funds under section 18 are eligible for section 3 funding, and our legislative proposal would reflect that.

Secretary LEWIS. Also, a large need in the nonurban area is buses, and as you know we have a very strong bus program.

Senator ANDREWS. Under your proposal, do you think that the rural and urban transit would continue to be treated equitably?

Secretary LEWIS. We feel so, or we would not make that recommendation, mainly, because of the escalation in the bus program.

Senator ANDREWS. Can you provide some further evidence for the record in support of that view?

Secretary LEWIS. Yes.

[The information follows:]

URBAN MASS TRANSPORTATION ADMINISTRATION BUS CAPITAL ASSISTANCE PROGRAMS

[Dollars in millions]

Program	Fiscal year 1982	Fiscal year 1983
Section 3 bus	530.7	520.0
Section 5, tier IV	329.6	375.0
Total	860.3	895.0

In addition to being eligible for section 3 funds, rural areas will have $43 million in carryover section 18 funds in fiscal year 1983 and an estimated additional $35 million carryover for fiscal year 1984.

MAGNETIC LEVITATION TECHNOLOGY

Senator ANDREWS. I have heard some conversation about the magnetic levitation technology in transit. It has been around for a while. It is fairly exciting to the people who are looking for a new type of transportation system. In the 1982 conference report on our bill, we included $8.5 million for the development of advanced group rapid transit and magnetic levitation.

I now understand that UMTA is trying to delay this development and hold up funding of these projects. Since these are really the only long-range R. & D. projects the Department is funding, isn't this selling out the future for some very immediate short-term gains?

Secretary LEWIS. As you know, the funds appropriated for this advanced group rapid transit will be obligated in fiscal year 1982. We are recommending the phaseout, as you stated in your question, in 1983. We feel that the cost that is being spent on this does not justify the outlay. We further feel that there are a number of private enterprise groups, particularly in foreign countries, that are looking at this particular technology, and it is going to be developed without the Federal Government proposing either research or development of this type of transportation mode.

Senator ANDREWS. Mr. Secretary, do you mean that you are satisfied with letting us sit back with a transportation system that is far behind the other countries anyway, and wait until they come out with some new stuff and then we will take a look at it?

Shouldn't we be studying that right along, maybe even getting ahead of some of these other nations?

Secretary LEWIS. We feel that it should be done in the private sector. The technology in these other countries, first of all, if you look at the Japanese system, the high-speed train there. I happened to visit the one in France. If you look at the capital outlays in terms of the single-track requirements, and other extremely high cost of these, as I see in the foreseeable future, which is certainly the next 20 years, these types of programs are not going to be funded anyway.

Also the technology, as I see it, particularly in the Japanese trains, if we were able to, for example, in the Northeast corridor, take freight trains off the passenger tracks, we could essentially have the same system they already have at a considerably reduced cost.

Senator ANDREWS. Could you provide for the record, Mr. Secretary, what your plans are for further development of magnetic levitation and other such advancements, what kind of R. & D. concepts you propose?

Secretary LEWIS. Yes, I will.

[The information follows:]

DEVELOPMENT OF MAGNETIC LEVITATION PROJECTS

Although DOT is not considering any further redirection of the AGRT and MAGLEV projects, in keeping with the spirit of previous assurances of consultation and because of the committee's interest and direction in the appropriations process, DOT will request that UMTA be released from part of the fiscal year 1982 congressional direction on AGRT and MAGLEV, that is, the segment of the congressional guidance which requires that initial results of the test phase be provided by 1984.

The multiyear funding commitment which would be required for the AGRT and MAGLEV projects in order to meet the congressionally directed 1984 date is substantial and would have a significant impact on the overall R. & D. budget for technology development and deployment. The UMTA staff has discussed with the contractors their capability of meeting this schedule and the funding which would be needed over the next 3 years to do so.

The funding levels that would be required both in 1982 and in future years to meet that schedule are so large that they would entirely consume any acceptable budget level for technology development and foreclose any ability to fund technology-related R. & D. and technical assistance in bus, rail, safety, alternative fuels, and other projects which would have much greater near-term benefit to the transit industry, State and local governments, and the public. For example, an AGRT/MAGLEV development program attempting to meet the 1984 target date would require funding in fiscal year 1982 over twice the $8.5 million which was appropriated.

Based on this potential impact on other technology areas and overall budget levels, it is infeasible for UMTA to attempt to implement the congressional schedule for AGRT and MAGLEV. As an alternative, DOT would propose to obligate the $8.5 million this year on contracts which would effectively stretch out the development schedule for these projects to one more consistent with a balanced R. & D. program under budget constraint. The contractors would be tasked to continue development of critical subsystems and components required for the AGRT and MAGLEV technology over the next 2 years. This will continue the overall system development process but concentrate it on areas which also have potential payoff in other applications.

NOTE.—Subsequent to the hearing date and recent subcommittee direction, this program is undergoing review by the Secretary.

RAIL FREIGHT SERVICE

Senator ANDREWS. On rail freight service, I also see that you don't have any funds requested in your budget for continuation of the railroad rehabilitation improvement financing program, redeemable preference shares, or loan guarantees.

Adequate railroad freight service is essential to the revitalization of our economy, and to keeping rural areas going. Branch line abandonments and a host of other things are really a plague in our area. Why are you proposing to terminate these programs? On what premise do you base this proposal?

Mr. DERMAN. Senator Andrews, the key elements of the rationale in the 1983 budget associated with those areas that you have talked about, if I can just tick them off are:

We believe that eliminating the Federal funding for the State safety grant program is consistent with the administration's efforts to encourage State support for activities that they can do themselves.

We are not eliminating the statutory authority for the cooperative State-Federal enforcement portion of the program. As a matter of fact, we are requesting 24 additional Federal positions and additional travel funds for improving the effectiveness of FRA's own inspectors.

With respect to the branch line program, we believe that this addresses local rail issues and is something that the States and the private sector should handle. This is particularly true, we believe, in light of the fact that the Reconciliation Act of 1981 did eliminate the temporary operating subsidies associated with that program.

Preference share funding, I believe that we have currently available about $129 million, a substantial portion of which has already been earmarked by the committee. We are in the process of using those funds to fund the existing Midwestern projects.

With respect to loan guarantees, we have received almost no applications at all, and we don't believe any major effect is anticipated with the termination of that program.

SURFACE TRANSPORTATION ADMINISTRATION

Senator ANDREWS. Mr. Secretary, if the new federalism approach and the President's budget were both enacted, UMTA would be reduced to merely a capital grants mechanism and the effect would be similar for the National Highway Traffic Safety Administration, and FRA as well, plus there is the possibility of a merged transit-highway gas tax. This all seems to suggest movement toward a merged Surface Transportation Administration. Is this something you are looking at?

Secretary LEWIS. We have looked at that and feel, for the present time, that it is impractical, if for no other reason than it is not feasible from a political standpoint. I think we probably have the closest cooperation between mass transit and highways that has ever existed within the Department of Transportation. We do recognize that Interstate freeways can frequently be more than offset in terms of their cost-benefit by improving mass transportation systems, rather than getting into an urban renewal project, a highway project, or expensive rights-of-way, or parking garages. So we are working together to that degree. Essentially, what we would like to do would be to have the State highway departments essentially take over all of our responsibilities in highways, with the exception of Interstates, bridges, and perhaps primaries, which we would keep at the national level.

As far as mass transit goes, we have to have some assurance that that money ends up in mass transit. Our feeling is that it should go directly to the cities in block grants. As long as it is not used for public works kinds of projects, which has happened in the past, but actually goes to upgrade the transportation systems, we think that the local communities are better able to make the determination. This has not been fleshed out. We do not have the detail. Again, we are working with the county officials, the mayors, other interested groups, and the Governors, to try to come up with some way that we can equitably make federalism work. In some States there would be very little interest in the Governor's office, or the Transportation Department, to do anything about mass transit.

We think we have to protect those mass transportation interests, and for that reason we think we are better off keeping them separated.

EFFECTIVENESS OF TRAFFIC SAFETY PROGRAMS

Senator ANDREWS. Finally, Mr. Secretary, there is a lot of talk about the effectiveness of traffic safety programs. In your opinion, how effective are the Federal efforts to assist State and local automobile traffic safety programs?

Secretary LEWIS. We think that by and large they have been quite ineffective. We are trying to emphasize, and we will be coming out shortly with a program to combat DWI, I guess that is what you call it, driving while intoxicated, by getting drunk drivers off the road. We are also working on a safety belt program. We believe that these two programs can be very effective in preventing accidents from happening in the first place, and for those that do occur, reducing death and injury.

But, in terms of trying to encourage States to take the actions that they should be taking, such as more strict enforcement of drunk driving regulations, and encouragement through public relations to use safety belts more, we think by and large our program has so far been less effective than it could have been.

We are supplying only 2 percent of the total moneys spent nationally on auto safety which is so insignificant in the total package that we figure we should work on the areas that we think we can do the best job nationally, and let the States assume the balance. I will expand on this for the record.

[The information follows:]

EMPHASIS OF SECTION 407 PROGRAM

Under the March 1981 budget amendment, the State and community highway safety grant program was reduced from $177.2 to $77 million. We intended the $77 million to be focused on programs that had previously shown the greatest potential for reducing deaths and injuries, namely: alcohol countermeasures, police traffic services, emergency medical services, and traffic records. Other programs such as those in the areas of driver registration and licensing, which had not demonstrated effectiveness in the past, were not expected to be funded.

Since that time, the National Highway Traffic Safety Administration and the Federal Highway Administration, as directed by the Omnibus Budget Reconciliation Act of 1981, have undertaken a rulemaking to determine those programs most effective in reducing accidents, injuries, and deaths. At this point, six program areas have been identified as being the most effective: The four mentioned above, plus occupant protection—safety belts and child seats—and the safety construction and operational improvements program of FHWA. We have also designed a process by which funding for any other areas would have to be proposed and approved. I am confident that although the State and community highway safety grant program has in the past funded some ineffective State programs, this will not be the case in the future using the criteria developed in our recent rulemaking.

FEDERAL MOTOR VEHICLE STANDARDS

Senator ANDREWS. How effective are Federal motor vehicle safety standards?

Secretary LEWIS. I will submit that in writing.

Senator ANDREWS. I appreciate that.

[The information follows:]

EFFECTIVENESS OF FEDERAL MOTOR VEHICLE SAFETY STANDARDS

The most thorough study thus far undertaken of the effects of motor vehicle safety standards was done by the General Accounting Office in 1976. This study focused on the National Highway Traffic Safety Administration's occupant protection standards; crash avoidance standards which caused improvements in brakes, lights, etc., were not included in the GAO analysis. In their study, GAO estimated that the occupant protection standards had saved 28,230 lives through 1974. Extending the GAO procedure to the present, NHTSA estimates over 83,000 deaths were averted in the 1966–81 period as a result of motor vehicle safety standards. As newer, safer vehicles replace the older, less safe ones, about 10,000 additional lives will be saved each year. It is estimated that a 1982 car is about 25 percent safer—in protecting occupants from injury or death—than a model year 1965 or earlier car.

Based on a just-released NHTSA report entitled "The Cost of Automobile Safety Regulations," it is estimated that safety standards have added $370 to the price of a car. An additional $210 is required to pay for the additional gasoline consumed over the life of the vehicle as a result of the weight that safety standards add to a vehicle.

The above figures represent the cumulative experience of safety standards. They should not be interpreted to mean that any one particular standard is effective or cost-effective. To address the latter issue, the Department is undertaking a priority review of its most costly and/or controversial regulations to determine whether they are achieving their intended goals in an efficient manner.

AIR CARRIER PASSENGER SCREENING COSTS

Senator ANDREWS. Senator D'Amato asked me to ask the following question orally.

In conjunction with the congressionally mandated aviation security program, Congress directed the Secretary of Transportation to compensate the U.S. international airlines for their costs, and four U.S. international carriers requested reimbursement for certain expenses incurred in screening passengers traveling in foreign air transportation.

You indicated last year that the Department would take the necessary steps to process all claims by the end of fiscal year 1981 and request funds to cover the moneys due the airlines.

What steps have you taken to process pending claims for reimbursement, and when will the Department request the funds to cover the required payments?

Secretary LEWIS. Actually, four claims were received, as you know, PanAm, Braniff, TransWorld, and Northwest Airlines, in the amount of about $12 million. We have completed our investigation through our Inspector General. Those recommendations have been submitted to the FAA, and if you are pinning me down for a date, I would say that we will have that completed within 1 month.

Senator ANDREWS. Will that be part of the supplemental?

Secretary LEWIS. That will have to be part of the supplemental, yes, sir.

Senator ANDREWS. I appreciate that very much, Mr. Secretary. I appreciated your answers to the hop, skip, and jump questions that I asked. I wanted to get a brief overview of your personal opinions on all of these subjects that are under your purview. Of course, the committee will go into a great deal of additional detail when the Department heads come up to testify in the next few weeks.

I have a number of questions for the record that I would appreciate getting answers for the record. At this time, I would like to yield to my colleague from Florida, Senator Chiles.

STATUS OF THE AIRLINE AND AUTOMOTIVE INDUSTRIES

Senator CHILES. Thank you, Mr. Chairman.

Mr. Secretary, we all know these are not good times for either the airline or the automobile industry. The airlines have had to adjust to significant fuel price increases, two recessions in 12 months, deregulation, price wars, and the air traffic controller strikes, all over the last 3 years.

In 1979, the airlines had a small operating profit. In 1980, they experienced a record operating deficit of over $225 million. 1981 was also a poor year for the airlines, in fact, according to one Wall Street analyst, the only reason that six of our major airlines have not collapsed is that the market for used airlines is just not out there and the banks don't want to take back the collateral.

In the automobile industry, February sales were the lowest in 20 years. It is beginning to look as if a lot of people have decided they not only want smaller and more efficient cars, they also want to spend less money on transportation. We expect some help as the economy improves, but many analysts are now saying that we are never going to see a return to the good old days for the U.S. auto industry.

What can you tell us about the health and the prospects for both the airline and the automobile industries? Do you anticipate any airline or automobile bankruptcies, or requests for Federal bailouts in the year ahead?

Secretary LEWIS. Let's start with the automobile industry. It is very clear, with the loss of $1 billion combined this year in the automotive industry, with the deterioration of the working capital, that the automotive industries are in serious trouble. It is also very clear that the auto industry will likely never return to its position and its relative percentage relationship to our total economy that it had in the past. We are essentially looking at a small car, no growth kind of a market. The auto industry has made a good beginning in retooling and redesigning, and upgrading their quality, which are important factors. I think the labor negotiations that took place between Ford and the UAW, and that are now taking place between General Motors and the UAW will help close the gap between the Japanese imports and American cars. What the American automotive industry needs more than anything else, as I see it, with the tremendous drop in demand for automobiles at the present time, are interest rates in the range of 12 to 14 percent so that dealers can finance their floor plans and people are satisfied to finance cars.

At the present time, within this administration, we think we have taken a number of steps to be helpful. First, of all, I think we have provided some encouragement to get the industry together with the unions. Second, we have dropped a great deal of the regulation that had been imposed on the automotive companies, which will save them about $1.5 billion, which we think is important. Third, in terms of the economic program, we feel that as we draw out of this recession, we will have provided more funds in the hands of the consumer and tax relief so that as the automotive industry becomes more profitable, the improved economic conditions will permit them to not only prosper, but retool, redesign their cars, and move on into the 1980's operating profitably. I do not sense that any automobile companies are going to go bankrupt. Obviously, we have a concern on Chrysler and Ford, but more on Chrysler. Again, if you look at Chrysler, they have an excellent line, they have redesigned their line. Lee Iacocca as their manager is doing an excellent job in handling his cash flow.

AIRLINE INDUSTRY PROBLEMS

As far as the airline industry is concerned, I think you cited a number of the reasons for its difficulties, the largest of which I believe, is that there are too many planes. Obviously, the fuel costs themselves have been very damaging. The recession has not helped them. They are doing a good job, I believe, in sorting out their excess labor. The airline industry, if you look at it in the future, at least from our vantage point, there will probably be no more jets in the air 10 years from now than there presently are. We will probably have 50 percent more planes, but they will be the smaller, commuter type, with better fuel efficiency. I would prefer not to speculate on which companies could or could not fall into bankruptcy because it could be damaging to the companies themselves. But there are airline companies that are in serious trouble. I think the best way to figure out which ones they are would be to review the financial papers.

Senator CHILES. Do you think that there could be bankruptcies in the airline companies this year?

Secretary LEWIS. Obviously, there could be bankruptcies in any industry, and I am not here to predict that any airline companies are going to go under.

COAST GUARD CAPITAL PROGRAM

Senator CHILES. A week ago last Friday, we discussed the status of the Coast Guard 1982 funding, particularly as it relates to the Coast Guard's capital construction program.

I am sure you recall the committee last year provided a substantial increase in the Coast Guard's capital program, and one of the major concerns that resulted in the committee providing additional funding was the need for the Coast Guard to play a more active role in the drug interdiction programs that are now focused primarily on south Florida.

We also discussed at the hearing a commitment made by Vice President Bush on February 16, to immediately and significantly increase Coast Guard forces and manpower in south Florida to help in the interdiction of illegal drugs and aliens.

We heard a commitment from Admiral Hayes that the Department intended to procure three surface effect ships in the very near future to be used in the Coast Guard's drug interdiction program. That commitment was included in a joint statement you and Admiral Hayes delivered to the committee.

Two of these surface effect ships could be delivered to the Coast Guard in under 4 months and, therefore, could go into immediate service against the smugglers.

I understand that the papers to permit the procurement of these three ships are presently in your office. Can you tell us or give us any time as to when we can expect to move on that procurement?

Secretary LEWIS. The specific procurement papers have not reached my desk, at least as of this morning. I will check on those when I get back.

If we have the proper back up and the funding is available, they will move out today. I just don't know where the papers are at the present time, and I will be glad to check and let you know on that.

Senator CHILES. Thank you.

Secretary LEWIS. The program itself, we are in agreement. We have approved it. It is just a matter now of making sure we comply with all the Federal regulations, and assuming that is completed, we will approve it immediately.

DEFENSE APPROPRIATION FUNDING

Senator CHILES. At that hearing Friday a week ago, there was again a great deal of discussion in regard to the capital program and the intent of Congress not only in what we had done in this committee but, also with Senator Stevens in the Defense Appropriations Subcommittee in providing additional funding for the Coast Guard.

As I see your statement today, it seems to indicate the same direction that we were getting from the Department prior to that hearing. I think we were urging strongly that you send up a deferral on this additional $300 million, so that Congress could speak to that, as to whether those funds should be utilized or not.

Senator Stevens said, as I recall, that our action was not a temporary aberration. He intended to put in another $300 million, and I certainly intend to help him in that, and I think everyone else that was here speaking was supporting him.

The Congress, I think, has spoken very clearly that we want to see a substantial step up in the increase in the procurement of capital equipment for the Coast Guard. We feel that is part of the Defense commitment that we are making, and also that that equipment could be used now.

As I said, I was hoping very much that by this hearing, we would see some change in regard to the Department's direction on that.

Secretary LEWIS. As Admiral Hayes indicated, as fast as he can procure the equipment based on the present funds available, we are doing it. I indicated I would approve those three cutters coming up as soon as that is submitted to me. I guess the question is, should we be submitting a deferral or not, and as of the meeting of last week, we are looking into that, and we will get back to you specifically.

Senator CHILES. So you are still looking into that, and we will hear from you.

Secretary LEWIS. We do not have in mind to duck the intent of Congress.

Senator CHILES. I thank you for that. We do need to come to a clear understanding on that.

Secretary LEWIS. The bottom line is, obviously, in many of these programs, we would like to have more funding. I think there is a great advantage to increasing the ability of the Coast Guard specifically in drug interdiction, where it is desperately needed.

I think we are adequate in terms of fisheries enforcement, and some of the other areas, but we are inadequate if we really want to do an effective job on drug interdiction. Again, under the current fiscal constraints, we tried to be as conservative as we could in our budgeting.

HIGHWAY SPENDING CEILINGS

Senator CHILES. Going now to the Interstate System, I know you are aware of all the press accounts and GAO studies indicating that our system of highways and bridges are in poor repair, and in fact you have already spoken to that. You have talked about your recommendation to try to increase the tax on motor fuel.

Another problem we have is the spending authority to match the discretionary contract authority. As you know, the spending ceilings imposed on the Federal highway program prohibit the States from spending all of their contract authorities made available to them, and this means we are giving with one hand and taking away with the other.

For example, in Florida last year, $107 million of contract authority that was made available could not be spent. In fiscal year 1982, roughly $118 million is projected not to be spent simply because of the constraints of the spending ceiling.

Florida is one of the fast spending States, and in 4 out of the last 5 years, Florida was the first State to bump up against its spending ceiling. Essentially, all of the contract authority Florida has not been able to spend, it receives through the discretionary program—the interstate discretionary program, the discretionary bridge program, and the priority primary program. As you know, there is no allocation of spending authority to the States for those discretionary programs.

I wonder, would you support a change in the legislation to insure that States receive an allocation of spending authority based on all of the contract authority that they receive, that it be based on that, instead of an allocation based on the allocation they receive from the nondiscretionary programs?

Secretary LEWIS. I would like to have an opportunity to look into that and submit an answer in writing. I guess it depends on many things, the funds available. I guess I would like to also discuss it with the Federal Highway Administrator. I understand your concerns in Florida. In fact, as you know, very early on in this administration, we said that this was one State that we had to make a commitment to, and make a strong commitment in terms of completion of the interstate because you are further behind than any other State in the Union. We are concerned that we have an adequate program in Florida, and I will get back with a specific answer on your question.

Senator CHILES. I would like to have that because we have these discretionary programs, and Florida applies for them, receives an allocation based on them, and we are going forward just as fast as we possibly can. So the funds are made available, but then we run into this arbitrary limit, so the funds that have been granted to us under the discretionary program are taken away from us. So it is sort of a catch-22 that we are operating under.

Secretary LEWIS. I understand.

[The information follows:]

ALLOCATION OF OBLIGATION AUTHORITY

If obligation authority were provided to go with each allocation of discretioanry funds while still maintaining a total obligation limitation, only about 20 States would benefit, while the remaining 32 States would be forced to absorb this addtional allocation. Since we must view the fairness of all limitations on a national equity basis, we feel that allocating obligation limitation with each allocation of discretionary funds would create inequities in the administration of the obligation limitation among the States as a whole.

EXEMPTION FOR INTERSTATE CONSTRUCTION

Senator CHILES. Last year at this time, Florida had 300 miles of incomplete Interstate. Now our State has approximately 200 miles left to go, with 50 of those miles under construction. Our State is proud of the progress that it has made in the last year, and it is of course anxious to complete the system, and completing the system is one of your stated goals, as you have said.

In view of the job creating nature of highway construction programs, and in view of the fact that right now we have got a buyer's market in regard to highway construction, what would be your reaction to exempting interstate construction entirely from the spending ceiling, to permit the States to proceed to spend all the contract authority made available to them for that purpose?

Secretary LEWIS. Again, I will have to look at that in detail in terms of the cash flow that is available within the constraints I operate in in the Department.

Fundamentally, our problem in all highway programs, and in almost everything in transportation, is the budgetary and cash flow constraints. If, for example, we were able to have another 4 cents that were made available to highways, then you could greatly accelerate all of these programs. In addition to that, you would provide about 160,000 jobs.

Senator CHILES. Absolutely.

Secretary LEWIS. It would be very beneficial.

Senator CHILES. We are dealing with a situation where many times, when we are building the highways, the costs are way up, the economy is booming, and we are paying top dollar. Now those contracts are coming in, I think our highway construction index is 25 percent below what it was 1½ years ago, and people are inquiring for work in Florida and we could build the highways at a very cheap price if we could move ahead.

Secretary LEWIS. I think your point is well taken. As gasoline prices seem to be dropping currently because of the glut, the 4 cents would have less impact at the pump in terms of the demand for gasoline, and we could get on with these programs.

As the chairman also indicated, this 4 cents that we have had for 23 years has deteriorated, our costs of construction have grown 300 percent.

AVIATION USER CHARGES

Senator CHILES. Let's move on now to some of the other user charges in transportation. The Department has again proposed major new aviation user charges which would total about $1.4 billion in 1983 and $2.7 billion by 1987. To the extent that Congress does not enact the necessary legislation and the fees are not put in place, the Federal deficit, of course, would be increased by a corresponding amount.

As you know, the aviation and boater fees and taxes that were proposed last year didn't make any progress. I don't know whether they are going to fare any better this year. To what extent is the 20-year plan to upgrade and modernize the air traffic control system contingent upon the increase in aviation fees?

Secretary LEWIS. It is totally dependent on that, and that is why we are trying to work very hard with both the committees in the House and the Senate to try to get an ADAP bill this year, which will require an increase in aviation tax for aviation gasoline, also for jet fuel, and obviously an increase in the ticket tax, we are proposing that that go to 8 percent.

Without that, I just don't see where you are going to get the $10 billion needed to upgrade this control system. If you don't upgrade the control system, 4 or 5 years from now, we are going to be looking back and find out that we can't put the planes that are being produced in the air because there will just not be the system there to have them be able to fly safely.

We desperately need ADAP legislation this year if we are going to move ahead with this program.

Senator CHILES. So it is very contingent upon the user tax?

Secretary LEWIS. That is correct.

WATERWAYS USERS FEES

Senator CHILES. The administration has also proposed legislation to charge barge and ship traffic on our inland waterways a ton-mile fee. The budget requests for the Corps of Engineers and the Tennessee Valley Authority for navigational maintenance have been reduced $150 million below the level required even to perform a moderate level of maintenance on all waterways and harbors.

I understand the administration will request adequate funding, if and when Congress enacts the ton-mile fee. In my State, over $7 million of funding has been cut for seven harbors and inland waterway projects.

Don't you think it would be a better approach to continue with that necessary maintenance of our inland waterways and harbors while we work on that legislation, instead of cutting off all those funds for necessary maintenance? Those maintenance problems are not going to go away.

Secretary LEWIS. We feel, that working with the committees in both the House and the Senate, that we do have an opportunity this year to put through legislation. Furthermore, we are prepared to compromise our position on that, as I indicated in testifying on the inland water fees. We called for 100 percent cost recovery, October 1, 1982. We recognize that that is an ideal solution, but impractical. We are going to have phase-ins. We are going to work together. I think if we do, the industries will be stronger and I think we will both accomplish what we want. That is, an adequate system, and those people who are benefiting from it are at least beginning to absorb more of the costs than they presently are.

I am also concerned that the harbor bill be done in an evenhanded way so that we don't eliminate some of the harbors that have less advantage in terms of having deep water, and having silt problems, and dredging problems, and so forth. I think there is still considerable work that has to be done between our Department and the various committees before we come up with a satisfactory answer.

Senator CHILES. I understand the desire to sort of prod Congress to do something on the ton-mile fee by virtue of holding out on the maintenance. On the other hand, I am concerned, when we look at the balance of payments that our trade in exports has so much to do with being able to have those harbors and waterways operate so that we can get that tonnage in and out. This seems to me to be an awfully important issue. That is a risky game to play for what the downhill side is, if we don't maintain those exports.

Secretary LEWIS. But the shortfall is so limited that with very constrained legislation, considerably less than what we are talking about, we can make up that deficit.

DEPARTMENTAL RESEARCH EFFORT

Senator CHILES. I note that the research program in the Office of the Secretary is proposed for an increase of $4.5 million, while in the Federal Highway Administration, the Coast Guard, the Federal Railroad Administration, and the Research and Special Programs Administration are all proposing reductions.

The research programs for FAA and National Highway Traffic Safety Administration are proposing increases.

Is there a general policy that explains why some research efforts of the Department are proposed for increases, and others are not?

Secretary LEWIS. What happened was that in 1982, we took too severe a cut and we are now trying to get ourselves back to a level where we can operate more effectively. It is not a matter of trying to build up a research department within my office, and cutting it out from somewhere else.

Senator CHILES. I understand that, but you are cutting those other areas. Are we going to have the same problems there?

Secretary LEWIS. In those areas, we felt we did not make enough cuts in the previous years. Some of the things we did last year, we did with considerably less experience than we have at the present time. I had been in office for about 2 months, or something like that, and I was coming up here making all those specific recommendations on budgets, and our administrators were in the same position. What we are trying to do is to balance things out this year, where we felt we could have done a better job last year.

Senator CHILES. I wish you would furnish the committee with an analysis of the Department's research programs, including budget tables that show spending trends, and a narrative explaining the 1983 changes.

Secretary LEWIS. We will supply that to the committee in writing.

[The information follows:]

DEPARTMENT OF TRANSPORTATION
CONDUCT OF RESEARCH AND DEVELOPMENT
(in millions of dollars)

Administration/Appropriation	Obligations			Outlays		
	FY 1981 Actual	FY 1982 Estimate	FY 1983 Estimate	FY 1981 Actual	FY 1982 Estimate	FY 1983 Estimate
Federal Highway Administration						
Federal-Aid Highways:						
R&D, Highways................	$ 13.3	$ 14.3	$ 14.0	$ 16.1	$ 13.5	$ 13.7
Highway Planning & Research..	22.9	19.6	20.2	21.4	18.1	19.1
Highway Safety Research and Development..............	5.8	7.0	8.6	9.3	8.1	8.6
Motor Carrier Safety...........	.7	.5	.5	1.0	.7	.8
Subtotal........	42.7	41.4	43.3	47.8	40.4	42.2
National Highway Traffic Safety Administration						
Operations and Research........	65.9	54.7	59.1	60.3	63.5	56.6
Federal Railroad Administration						
Railroad Research & Development	36.6	35.6	20.0	48.2	19.4	18.2
Urban Mass Transportation Administration						
Urban Mass Transportation Fund	92.2	50.5	43.5	73.0	51.2	38.3
Federal Aviation Administration						
Research, Engineering, and Development..................	87.9	74.0	133.5	89.1	66.6	101.0
Facilities, Engineering, and Development.............	17.1	8.2	-0-	15.5	16.5	4.5
Operations.....................	15.1	14.5	18.2	15.0	14.9	18.0
Subtotal........	120.1	96.7	151.7	119.6	98.0	123.5

DEPARTMENT OF TRANSPORTATION
CONDUCT OF RESEARCH AND DEVELOPMENT (CONT'D)
(in millions of dollars)

Administration/Appropriation	Obligations FY 1981 Actual	Obligations FY 1982 Estimate	Obligations FY 1983 Estimate	Outlays FY 1981 Actual	Outlays FY 1982 Estimate	Outlays FY 1983 Estimate
U.S. Coast Guard Research, Development, Test, and Evaluation.........	$ 26.3	$ 18.0	$ 15.0	$ 25.9	$ 21.0	$ 15.6
Maritime Administration Research and Development.......	15.5	10.7	17.6	18.8	15.6	16.2
Research and Special Programs Administration Research and Special Programs..	10.1	8.2	7.5	10.3	4.8	4.8
Office of the Secretary Transportation Planning, Research, & Development......	10.1	4.0	7.8	13.9	6.6	5.1
TOTAL...........	$419.5	$319.8	$365.5	$417.8	$320.5	$320.5

Final changes did not get reflected in Special Analysis K. The amounts shown above are slightly different than shown in the Special Analysis but reflect more accurate data.

DEPARTMENT OF TRANSPORTATION
RESEARCH AND DEVELOPMENT FACILITIES
(in millions of dollars)

Administration/Appropriation	Obligations FY 1981 Actual	Obligations FY 1982 Estimate	Obligations FY 1983 Estimate	Outlays FY 1981 Actual	Outlays FY 1982 Estimate	Outlays FY 1983 Estimate
Federal Highway Administration						
Federal-Aid Highways...........	--	--	--	2.8	4.3	--
National Highway Traffic Safety Administration						
Operations and Research......	.5	.6	.6	.5	.6	.6
Federal Railroad Administration						
Railroad Research and Development..................	9.5	7.7	--	6.8	10.6	1.3
Federal Aviation Administration						
Operations.....................	1.6	1.6	1.6	1.6	1.6	1.6
Facilities and Equipment.......	7.3	4.4	17.1	4.5	2.7	7.5
Subtotal........	8.9	6.0	18.7	6.1	4.3	9.1
Maritime Administration						
Research and Development.......	.2	--	.6	.2	--	.6
TOTAL...........	$19.1	$14.3	$19.9	$16.4	$19.8	$11.6

DEPARTMENT OF TRANSPORTATION
ANALYSIS OF OBLIGATIONS FOR CONDUCT OF RESEARCH AND DEVELOPMENT
(in millions of dollars)

Administration	FY 1982	FY 1983	Difference	Remarks
FHWA	$ 41	$ 43	$ +2	Continues research programs in highway planning, design, construction, and maintenance to insure an effective and efficient highway system. Research would also be conducted in identifying and correcting impediments to highway safety and on improving common carrier safety.
NHTSA	55	59	+4	Provides for motor vehicle research, traffic safety research and demonstrations, and other statistical and analytical studies. Increase proposed in 1983 is for continuing the National Accident Sampling system which provides nationally representative accident and injury data, and for focusing analysis on major traffic accidents.
FRA	36	20	-16	Continues emphasis on safety research. Reduction in funding from the 1982 level would eliminate nearly all nonsafety research.
UMTA	50	44	-6	Assists in the development of improved mass transportation systems, equipment, and procedures. Emphasis will be placed on assisting proven transit systems.
FAA	97	152	+55	Provides greater emphasis on engineering work on the national air traffic control system, and on emerging technology to improve collision avoidance systems and enhance en route and terminal air traffic control systems.

Administration	FY 1982	FY 1983	Difference	Remarks
USCG	$ 18	$ 15	$ -3	Supports research to maintain and improve search and rescue systems, environmental protection, marine safety, and aids to navigation.
MarAd	11	18	+7	Improves the productivity and competitive posture of the U.S. maritime industries. Increased funds are provided to support icebreaking vessels in the Arctic for R&D and increased ship research.
RSPA	8	7	-1	Supports emergency preparedness and mobilization efforts and the hazardous materials and pipeline safety regulatory programs.
OST	4	8	+4	Supports broadbased policy research on domestic and international transportation issues of importance to the Nation.
TOTAL	$320	$366	$+46	

OFFICE OF THE SECRETARY FUNDING LEVEL

Senator CHILES. All right, sir.

As you know, the overall funding requested by the Department for 1983 is a 2-percent reduction compared to 1982, and most of the transportation agencies, Coast Guard, Federal Railroad Administration, Urban Mass Transit Administration, are all showing sizable reductions.

The Office of the Secretary, on the other hand, shows an $11.7 million or a 31-percent increase. I understand that $4.2 million of that is explained by the transfer of funding for the Minority Business Resource Center to the Office of the Secretary from the Federal Railroad Administration.

However, excluding the Minority Business Resource Center from consideration, we still see the Office of the Secretary increasing almost 20 percent. What is the reason for that?

Secretary LEWIS. As you indicated, about 40 percent of the increase came from the transfer of minority business, about 40 percent came from the restoration of R. & D. which you previously asked about, and another 18 percent is the cost of pay raises that are in the 1983 budget and not yet reflected in fiscal year 1982. The remaining 2 percent came because we now have MARAD as part of the Department of Transportation, which we did not have before—that is, we have a proportional share of MARAD's costs at the level of the Office of the Secretary. So it is really those four items.

I will give you those details in writing, so you will have the specific figures in answer to that question. I have them here, but I won't do it now.

Senator CHILES. If you would submit those, that would be helpful.

[The information follows:]

OFFICE OF THE SECRETARY INCREASES

The overall increase requested for the Office of the Secretary is $11.6 million or 31 percent. As indicated above, the two major contributing factors to this increase are the transfer of the Minority Business Resource Center functions from the Federal Railroad Administration—$4.2 million—and restoration of research and development to a level where the program can operate more efficiently—$4.5 million. Also included are full-year costs of 1982 pay raises—$1.7 million, administrative support related to the transfer of MARAD activities—$400,000, and costs of continuing 1982 program—$800,000.

TRANSPORTATION SAFETY NET

Senator ANDREWS. Thank you, Senator Chiles.

Senator Abdnor.

Senator ABDNOR. Good morning, Mr. Secretary. I am sorry that I was late.

I have been listening to all the questions from both the chairman and Senator Chiles, and there is something on my mind.

Do we have anything like a safety net for transportation? We have talked about safety nets on other things.

The reason I say that, is that there are a lot of States in this Union that are not as fortunate in wealth and rich in dollars as other States. States like my own and others around it have been slowly deteriorating.

I wonder where it is all going to end. In the last year, not only airlines have been in difficulty, but States like mine are getting less and less service. They just can't operate.

We have cut back on the highway revenues. I realize maybe each State should be taking care of their own, yet they are an intricate part of our whole highway system as needed for this Nation.

The rail system—we are doing better thanks to some help from the past. Our Governor has taken it upon himself to actually buy up some railroad systems out there so we can have one. This has resulted because of help from the Department of Transportation.

I realize the bind that we are in, but still I wonder, is there a point in all of this where the Federal Government just has to help out?

Secretary LEWIS. I think there is, Senator. If you will look at the Department of Transportation, and specifically three modes, highways, FAA, and the Urban Mass Transportation Administration, all three, with the present resources available, are inadequately funded.

If there is to be a safety net in highways in terms of restoring our Interstates and moving ahead with our bridge replacement program, and so forth, we have got to have more funds than the 4-cent gasoline tax passed in 1959.

In the FAA, we are talking about user charges because of the desperate need to upgrade the control system.

The Urban Mass Transportation Administration, I am comfortable that the administration's and our position is correct in eliminating operating subsidies. But we really need funds for the capital side of mass transit, and the only way we are going to get that is through increased user fees.

In summary, what I am trying to report to you is that if you look at all of our modes, we are adequately funded and can operate within the present constraints. If you want to significantly advance the Coast Guard in terms of drug interdiction or something like that, you have to provide more funds.

If we don't move ahead with some funding of highways, FAA, and mass transportation, we are going to see a geometric deterioration of these systems which is something I would think this committee would not want to see and certainly I would not want to see as Secretary of Transportation.

Senator ABDNOR. When you mention the other three modes, are the railroads included too?

Secretary LEWIS. In the FRA, as you know, we did not ask for additional subsidies for Conrail. It is operating in the black. We feel we are making proper progress in terms of its return to the private sector. We don't feel we need additional funding for the FRA, nor do we feel that we should be in the position of buying branch lines and subsidizing branch lines, but that should be a State determination. As you know, the Staggers Act has made these railroads considerably more stable and, by and large, more profitable. I also realize the problem that concerns you, and that is the abandonments that are taking place as railroads try to get rid of their less profitable lines.

Senator ABDNOR. I realize when I say that that I don't think anyone dreams of seeing the railroads as they once were, but just a basic railroad to get products in and out. That is why I talk about a safety net.

The States are absolutely strapped, yet they make a great contribution, I would like to think. Agriculture is mostly associated with rural America, and it is the only bright spot in the foreign trade field I guess, so it has got to continue.

You said, and I understand that, if we are going to have Interstate Highway repair, you have got to have some money to do it with, but equally so for rail. If you happen to live along the waterway, that is great, but if you are out in the Plains, the grains have to move.

I wonder if there is a point, even under the Railroad Act, under some unusual situation, where we still have to help out from this end.

Secretary LEWIS. I frankly feel, in the railroad area, we are working through a lot of our problems. The Conrail system is considerably stronger than it was before the Federal Government got involved, of course, it has cost us $6 billion to get it there. If you look at the movement of freight by rail, and the industry itself, the deterioration itself is really something that took place with the bankruptcy of the Penn Central, the Rock Island, and so forth.

Senator ABDNOR. Thank you.

Senator ANDREWS. Thank you very much, Senator.

SUBMITTED QUESTIONS

Mr. Secretary, I appreciate very much your appearance here. I have some questions for the record from Senator Byrd and some of the other members of the committee, that we will submit to you to have answered for the record.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

TRANSPORTATION POLICY

Senator Andrews: Mr. Secretary, last year in your testimony before this Subcommittee, we asked you whether or not you planned to issue a comprehensive statement of the Administration's transportation policy. We also asked whether your decisions were based on a conceptual framework, or whether they were made ad hoc. The response was as follows: "DOT will issue a brief general statement on transportation policy. It will stress reduction in spending, an increased role for user charges and reduced regulation." That is all you said. Because you submitted that answer for the record, we did not have the opportunity to follow-up on what is obviously an inadequate response to a most serious question pertaining to the direction of one of the most vital aspects of our entire economy. To begin with, please provide for the record that "brief general statement" on transportation policy which you promised us last year.

Response: I did intend--and I still do intend--to issue a formal statement of the principles that guide this Administration's actions in the transportation sector. In the meantime, our principles have been made clear in both words and actions, and we have been carrying out these principles through budgetary, legislative, and regulatory activities.

Senator Andrews: Just what is the conceptual framework upon which your transportation policy decisions are made? We will allow you to submit that response for the record again this year, with the understanding that an inadequate response for the second year in a row would suggest to this Committee that we should take an even more active role in filling any apparent vacuum of policy concepts.

Response: The Department of Transportation's primary policy goal is to assist the President in reviving the economy and limiting and making more effective the role of the Federal Government in our society. More specifically, our objectives are to: (1) finance Federal transportation outlays, whenever possible, through charges levied directly on the user or immediate beneficiary of a Federal transportation service or facility; (2) subject any proposed Federal investments to rigorous cost-benefit standards to ensure that only those projects whose benefits exceed their costs are funded; (3) return non-national functions to state and local government and, in a complementary manner, reduce Federal regulations and Federal subsidies; (4) increase reliance on the private sector and on market mechanisms through reduced regulations and the return of transportation functions to private operation; and (5) improve the Federal Government's efficiency and effectiveness in carrying out those public sector functions which are high and legitimate national priorities.

EFFECTIVENESS OF DOT

Senator Andrews: Mr. Secretary, now that the Maritime Administration has been brought within the Department of Transportation, do you believe that the Department of Transportation has finally "come of age", or does substantial work remain to be done in improving the effectiveness of DOT? How would you assess the effectiveness of DOT's planning and management of functionally related policies, programs and activities, and of its various, and often apparently autonomous, agencies?

Response: It is difficult to specify any single or easily measured standard of effectiveness for DOT program management, given the wide range of Federal transportation programs and program objectives. Moreover, in many cases our objective is to remove the Federal Government from transportation functions so that the private sector and state and local government can do the managing and decisionmaking. For those program areas in which there is a clear Federal responsibility, I believe we have done a good job, although there is always room for improvement.

RATIONALE FOR PART-TIMING/CLOSURE ACTIONS

Senator Andrews: Will you be proposing to close or reduce the hours of operation of any flight service station? Why?

Response: We propose either to close or part-time 99 flight service stations during FY 1983. These part-timings and closures will improve system productivity while reducing the burden on the taxpayer and are consistent with the Flight Service Station Modernization Program. The decision whether to close or part-time will depend upon recommendations contained in staff studies of individual facilities.

We are also planning to close 32 and part-time 60 flight service stations in FY 1982. The 99 actions proposed in FY 1983 may include closing some of the 60 stations planned for part-timing in FY 1982, so the numbers planned or proposed for the 2 years should not be added to obtain a total.

FSS MODERNIZATION PROGRAM

Senator Andrews: Provide for the record a detailed schedule of implementation of the Flight Service Station Modernization Program.

Response: The $78 million contract for automation equipment was awarded September 1981. Initial delivery of the 41 Model 1 systems will begin this August and will be completed by January 1984. The initial Model 2 system will be delivered in August 1983 with the last of the 61 systems scheduled to be delivered by January 1989.

We plan to obtain space for the new FSS's where possible on a sponsor-provided,leased basis and have identified six locations to date. The six locations are: Denver, CO, Bridgeport, CT, Terre Haute, IN, Cleveland, OH, Dayton, OH, and Green Bay, WI. The remaining sites will be selected over the next two years. We will take occupancy of the first of the new FSS's in the fall of 1983.

Consolidation of the existing FSS's will be accomplished as the new facilities are commissioned, and should be completed by 1993.

NUMBER OF FLIGHT SERVICE STATION PEOPLE AFFECTED

Senator Andrews: How many people will be affected by your proposed closures and reductions in flight service stations?

Response: There are 977 Air Traffic people located in the 99 flight service stations (FSSs) that are candidates for closure or part-timing. For each flight service station that is not closed but is part-timed, five less people would be affected. Theoretically, for example, if 98 FSSs are closed and only one is part-timed, 972 people would be affected.

PROVISIONS FOR FLIGHT SERVICE STATION EMPLOYEES

Senator Andrews: What will happen to them? What provisions have you made?

Response: Flight service station employment levels for FY-1983 will remain the same as they were in FY-1982. Therefore, employees working at facilities to be closed in FY-1983, and some of those at facilities to be part-timed, will be offered positions at higher activity flight service stations. In many cases, this will result in a promotion for the transferred employees.

ADDITIONAL COSTS IN CLOSING FLIGHT SERVICE STATIONS

Senator Andrews: What additional costs will be incurred as a result of these closures?

Response:

1. After a modest attrition is deducted from the on-board staff, permanent change of station costs for the remaining employees will be approximately $7,300,000.

2. The F&E costs will be approximately $110,000 per facility closed or part-timed, for a total of about $11 million. However, costs vary widely between individual facilities. These costs include funds for the relocation and retermination of communications.

3. There will be an increase in leased communications costs of approximately $30,000 per year per facility closed or part-timed.

4. Based on the requirement to continue weather observations, we estimate 50 facilities will require contract weather observers. This will amount to approximately $750,000 per year for 2 years until the National Weather Service assumes full responsibility for weather observations.

5. There will be an increased cost of approximately $16,000 per year per facility to maintain additional communication facilities to remote the data at these locations.

CLOSURE/PART-TIMING CRITERIA

Senator Andrews: What criteria did you use to determine which facilities should be closed or reduced?

Response: In general, those facilities with the lowest activity have been considered for part-timing and closure. These facilities generally have a substantially lower productivity than those to which personnel will be reassigned, and have a relatively high turnover of personnel to the higher-activity facilities. At present most facilities have very minimal activity during late evening and midnight shifts.

Closings and part-timings are essential if we are to continue the present level of services. Annual specialist productivity at the 10 lowest-activity flight service stations is approximately 5,700 flight services; at the 10 busiest stations it is 18,000 services per specialist. The system average is 13,488, with a range from 2,700 to 24,000 per specialist at individual facilities.

CONTINUATION OF SERVICES

Senator Andrews: How do you propose to continue services to these areas? Will you use WATS lines? Will direction finding still be operative?

Response: All required services will continue to be available from an adjacent facility. This includes but is not limited to weather observations, pilot weather briefings, and flight planning services. Most services will be provided through remote means from a fully equipped FSS. Remote radio communication outlets and toll-free telephone service are already in place at many locations and will be expanded if required. Existing direction finding equipment will be remoted and additional direction finders, already budgeted for, will be added to the system.

COST SAVINGS FOR CLOSING FLIGHT SERVICE STATIONS

Senator Andrews: What cost savings do you project through this action?

Response: The increased productivity and reduced maintenance requirements resulting from closing 99 flight service stations would produce an annual salary and benefits cost avoidance of approximately $14,760,000. For each flight service station that is not closed but is part-timed, the cost avoidance will be reduced by approximately $92,000 per year.

SELECTION OF SITES FOR PART-TIMING/CLOSURE ACTION

Senator Andrews: How did you arrive at the locations selected?

Response: Although no final selections have been made, our regions have tentatively identified 99 facilities to be closed or part-timed in FY 1983 in addition to 92 identified for closing or part-timing in FY 1982. The planned 1983 closures may include some facilities identified for part-timing in 1982. Our selection criteria is based on activity. The greatest productivity and capacity increases are achieved when low-activity FSS's are closed and their personnel assigned to higher-activity facilities. However, no final selection of locations will be made until individual staff studies have been completed for each candidate location.

FAA FURLOUGH LETTER AND ATTACHMENT

Senator Andrews: The FAA recently sent a letter to its employees regarding a furlough program. Please provide a copy of that letter and its attachment for the record.

Response: (The letter and its attachment follows:)

FEB 11 1982

Dear Fellow Employee:

I am sure you are aware through national news reports of the major efforts underway to balance the Nation's budget. Further, the Administration has responded to the people on a major concern of reducing the cost of Government to taxpayers--with attendant tax reductions.

Recently, because of budget constraints, I instructed the agency's top managers to reduce, defer, or curtail programs and activities where possible. However, despite these cost-cutting measures, we are faced with a severe shortage of funds for Fiscal Year 1982. Except for final Congressional approval, action on our requests for additional funds has been completed, and it is clear that we have no option but to develop and implement additional plans, such as the use of a short furlough, which will reduce expenditures for the remainder of this fiscal year. This is necessary to assure that we do not exceed our funding limitations and, thereby, violate provisions of the Anti-deficiency Act.

During this fiscal year, the agency has had to use a significant amount of overtime in order to compensate for the illegal controller strike. Funds normally used to pay those people were removed by the Congress shortly after the strike. However, as part of our cost-cutting measures, I plan to reduce further the use of overtime as the year progresses. I have also directed that travel, training, and the use of contracting services be reduced. Again, however, because we are an operation oriented organization, it will still be necessary to provide for some travel, technical training, and contracting services in order to carry out our agency mission of aviation safety. Therefore, although these functions will be closely monitored and will be curtailed to the extent that we can, I believe it is imperative that these functions must still be carried out to some extent during this fiscal year.

FAA activities are financed by seven major appropriation accounts. These are: Operations; Facilities and Equipment; Grants-in-Aid for Airports; Metropolitan Washington Airports Operation and Maintenance; Metropolitan Washington Airports Construction; Facilities, Engineering and Development; and Research, Engineering and Development. About 95 percent of our employees are funded from the Operations appropriation, 1.4 percent from Research, Engineering and Development, and .003 percent from the Facilities, Engineering and Development appropriations. It is in these three accounts that our funding deficiencies for FY 1982 exist. We are prohibited by law from transferring funds between individual appropriations. Accordingly, I have determined that in Fiscal Year 1982 we must plan to furlough for 12 days those employees who are funded from these three appropriations. This includes regional and center directors, associate administrators, and other key agency managers. However, I have concluded that even though air traffic control employees are funded from the Operations account, these employees must be excluded from the furlough because of the staffing shortages created by the illegal controller strike of last summer. This exception applies to those who are directly engaged in providing air traffic control service and those who are directly involved in giving or receiving air traffic training to replace those controllers removed because of the strike. A listing is attached which identifies the specific positions to be excluded from the furlough.

To minimize the impact of this furlough on our employees and on our ability to provide service to the public, we will follow these basic rules:

1. No administrative office or field facility is to be shut down completely as a result of the furlough, but instead will operate at reduced levels during their regularly scheduled operating hours.

2. Employees will be furloughed for one day each pay period beginning with pay period 9 (begins on April 4, 1982) and continuing through pay period 20 (ends September 18, 1982) for a total of 12 work days. The specific days for individuals will be determined by management officials, but scheduling will be spread out to assure that the impact is minimized on all functions.

I regret that this furlough is necessary. However, I know I can count on the FAA work force to work with me in this unpleasant, but necessary endeavor. As the year progresses, we will continue to monitor our funds closely and to monitor the action taken by Congress on our supplemental budget requests. During the year, if our budgetary picture improves and the number of furlough days can be reduced, I will let you know. You may be assured that in taking this furlough action, we will follow required adverse action procedures.

Sincerely,

J. Lynn Helms
Administrator

EXCEPTIONS TO THE FURLOUGH AND RATIONALE
(Attachment to the Administrator's letter)

A. Positions Financed from the Following Accounts: Reimbursement; Facilities and Equipment; Operations and Maintenance Metropolitan Washington Airports; and Aviation Insurance

Rationale for Exception -

Since the above accounts are financially solvent, the furloughing of personnel paid by these accounts is not necessary.

B. Those Who Are Directly Involved in Rebuilding the Air Traffic Control System

1. All nonsupervisory employees in the GS-2152 series, GS-7 and above, who are working in a tower, center, or combined station/tower.

2. All supervisors in the GS-2152 series who are directly engaged in controlling live air traffic and/or who directly supervise employees engaged in controlling live air traffic at a tower, center, or combined station/tower.

3. All personnel involved in the training of air traffic control terminal and center trainees at the FAA Academy or developmentals at the FAA Technical Center. This includes GS-2152 instructors and their immediate supervisors; GS-1702 educational aides in the radar training facility; and GS-1712 instructors involved in classroom instruction of terminal and center trainees.

4. All employees in the GS-2152 series in the tower and center options who are attending training at the FAA Academy or the FAA Technical Center.

5. All employees in the GS-2152 series who are assigned to the Central Flow Control Facility.

6. All Flight Data Specialists, Transportation Clerks/Assistants, Flight Data Communications Specialists, Flight Data Assistants and Flight Data Monitors who perform (or supervise employees who perform) duties directly associated with the control of live air traffic at a tower, center, or combined station/tower.

Rationale for Exception -

As a result of the illegal nationwide controller strike, called by the Professional Air Traffic Controllers Organization in August 1981, more than 11,000 controllers were removed. The loss of so many skilled employees produced an immediate impact on the operation of the Nation's air traffic control system and resulted in severe staffing shortages at most towers and centers throughout the country. Through the use of flow control procedures, the nonstriking controllers, supervisors and military controllers were able to keep the system operating safely, at reduced levels.

Since August 1981, the agency has had to almost completely rebuild the air traffic control system, a process which is estimated to take at least 2 more years. The rebuilding effort involves intensive recruitment and training of replacement controllers. This has meant that the formalized tower and center training programs at the FAA Academy have been expanded to operate two shifts rather than just one, and employees in many towers and centers are still working a 6-day workweek.

Since employees in the towers and centers are already operating with a significantly reduced complement of controllers, it is not feasible to require them to absorb further reductions through furloughs because of the potential adverse impact on the operation of the air traffic control system. Therefore, all employees who occupy the positions specifically listed above are exempted from the furlough.

FAA FURLOUGH

Senator Andrews: How many people are involved and from what appropriation items and accounts are they financed?

Response: There have been roughly 30,000 people involved in these considerations from the following appropriations: 140 - Facilities, Engineering, and Development; 725 - Research, Engineering, and Development; and 29,000 to 30,000 - Operations. The Operations furloughs are driven by dollar considerations and the others result from considerations of equity where people performing similar work at the same facility may be funded from other accounts.

Senator Andrews: Please provide for the record a geographical breakdown of the furloughed positions. What will be the impact on the fiscal 1983 budget?

Response: As you know, the FAA has offices and installations in all 50 States. The plan would be to furlough approximately 30,000 employees. The best possible geographic breakdown we have available is by our regional locations. These numbers are as of March 9, and will vary some from now until such time as a furlough may be initiated.

The estimated number of furlough positions by FAA regional locations and the States represented by those locations are as follows:

New England (ME, VT, NH, MA, CT, RI)	963
Eastern (NY, NJ, PA, MD, VA, WV, DE)	2,896
Technical Center (Atlantic City, NJ)	1,405
Southern (GA, NC, SC, KY, TN, MS, AL, FL)	4,098
Southwest (TX, LA, AR, OK, NM)	3,046
Great Lakes (IL, IN, OH, MI, MN, ND, SD)	3,394
Central (MO, KS, NE, IA)	1,795
Aeronautical Center (Oklahoma City, OK)	3,327
Northwest-Mountain (CO, UT, MT, WY, WA, OR, ID)	2,649
Western-Pacific (CA, NV, AZ, HI)	2,940
Alaska (AK)	1,147
Washington Headquarters	2,101
TOTAL	29,761

The President's budget for fiscal year 1983 does not contemplate a furlough for FY 1983.

Senator Andrews: What is the anticipated impact on overtime costs?

Response: The furlough does not of itself preclude the use of overtime, provided overtime is not being used solely to compensate for time lost because of furlough. As part of the Administration's cost-cutting efforts, top management has given special emphasis to reducing, if not completely eliminating, the use of overtime. Overtime authorization and approval has been elevated to the Regional Director and Associate Administrator level. In addition, the overtime reporting is being closely monitored. The only exception to the use of overtime is that expended and associated with air traffic control and the safety of the National Airspace System and the air traffic training program.

Senator Andrews: Why is it necessary to furlough these people?

Response: If a furlough becomes necessary, it will be because of several reasons, one of which is self-imposed fiscal restraint. FAA's initial FY 1982 budget request was developed and submitted in July 1980. Subsequently, the estimates were revised by the Office of the Secretary, the Office of Management and Budget (through two Administrations), and finally by the Congress. All these review authorities made budget revisions based upon their analyses and policies in effect at the time of their reviews. Further, there were several adjustments which decreased, as well as increased, estimates attributable to the air traffic controller strike of August.

Some of the adjustments made by the Congress were as follows: The House/Senate Conferees in their November 13, 1981, Report No. 97-331 authorized $2,220,000,000 for the Operations appropriation with instructions to keep $57.5 million in reserve for proposed increased pay legislation for controllers and other personnel. The DOT Appropriation Act for FY 1982, P.L. 97-102 dated December 23, 1981, appropriated $2,095,000,000 for Operations.

The Operations appropriation is salary intensive. The personnel compensation and benefits historically has run about 82.0 percent of the total funds available. Of the other than personnel compensation and benefit funds available, a substantial amount of funds are committed to long-term contracts for rent and communications and a variety of service contracts, leaving a limited area in which management efforts can be exerted to produce additional savings.

Supplemental appropriations we are requesting in FY 1982 ameliorate but do not entirely eliminate the effects of the reductions, and there is a shortfall to be met by management actions.

Senator Andrews: What is your total savings goal for this year?

Response: Our initial estimated shortfall calculated in December 1981 was approximately $77 million of which less than half involved personnel costs. As a result of immediately implementing directed management cost-cutting initiatives, our recent agencywide financial review identified reductions in cost that have exceeded our expectations. For example, in the Operations appropriation, the cost-cutting effort was successful enough to reduce the planned 12-day furlough to 8 days and then to our latest estimate of 6 days.

Senator Andrews: How much will the furlough bring in?

Response: Although the potential furloughs have involved employees funded by three appropriations, only the furloughs planned for employees paid out of the Operations appropriation have been driven specifically by the savings considerations, as you are using the term. The 6-day furlough represents approximately $20.0 million. Continuing management cost-reduction actions may reduce our present shortfall and the need for a 6-day furlough. It is important to recognize that our estimates are based on the assumption that all of our FY 1982 supplemental estimates will be approved in the amount requested.

Senator Andrews: What adjustments are you contemplating to pick up the difference between the furlough savings and your total savings goal?

Response: Our initial savings goal, which we felt might have to be met by furlough, amounted to somewhere between $33 and $36 million for Operations appropriation. or the equivalent of a 12-day furlough for nonexempt personnel. To help satisfy this shortfall, the FAA directed its managers to initiate cost-saving actions including, but not limited to, the following, so long as National Airspace System safety is not impacted: (1) deferring special maintenance projects, (2) reducing procurement of facility stocks, stores, and equipment, (3) deferring special contract studies, (4) delaying employee change-of-station moves, (5) reducing travel and transportation, and (6) imposing restrictions on employee hiring not related to the air traffic controller strike recovery and aircraft certification, etc.

A recent financial review showed that these efforts have been substantially successful, so much so that the planned estimate of up to 12 days furlough was reduced to 8 days, and more recently was reduced to an estimate of 6 days. A continuation of these stringent efforts and other initiatives now being considered hopefully will further reduce the estimated shortfall which now stands at about $19 million.

Senator Andrews: Will you be requesting supplemental appropriations? Will they reduce the need for furloughs?

Response: Two FY 1982 supplementals are shown in the President's FY 1983 Budget:

1. $95,000,000 for air traffic control strike recovery efforts and $25,200,000 to help finance TELPAK communications rate increases.

2. $16,000,000 for Research, Engineering and Development to finance necessary research required to modernize the National Airspace System.

In addition, we anticipate proposing a supplemental to cover the costs of pay increases which became effective in October 1981 and the increases in salary maximums, effective in January 1982.

Current assumptions on employee furloughs assume enactment of these supplementals. Otherwise additional furlough days, over and above those presently planned, would be required to stay within our available funds.

Senator Andrews: Was this a management decision or was it dictated by the availability of funds? If by the availability of funds, do you intend to ask for a supplemental for this purpose?

Response: The decision, by and large, was dictated by the availability of funds. Because of budget constraints, the agency's top managers were instructed to reduce, defer, or curtail programs and activities where possible. Since our initial estimate was determined in December 1981, considerable reductions have been accomplished. Despite these cost-cutting measures of deferring special maintenance projects, reducing procurement of stocks and stores, curtailing equipment procurement and other cost-reducing actions, there is still a shortage of funds for fiscal year 1982.

The Department is still pursuing a number of alternatives to reduce and/or eliminate the need for a furlough in FAA.

Senator Andrews: Would you have to furlough people if the $57 million reserve were released?

Response: No, since the current shortfall is less than $19 million, the FAA would not have to furlough people if the equivalent amount in these earmarked funds were released. However, the House/Senate Conferees in their November 13, 1981, Report No. 97-331, for the Operations appropriation, included instructions to keep $57,500,000 in reserve for proposed increased pay legislation for controllers and other personnel. The Department's position is that the use of these funds by FAA under these circumstances would be contrary to the expressed intent of Congress. The management cost-cutting actions initiated earlier this year have produced substantial reductions in day-to-day administration costs such as travel, procurement of facility stocks and stores and equipment, curtailing change-of-station costs, and other areas where cost-savings initiatives could be instituted without impairing the safety of the National Airspace System. It appears that we are making headway in reducing our shortfall. At this time FAA's planned furlough days have been cut in half - from 12 days to 6 days and postponed to the latter part of June or early July. Continuing efforts to further reduce costs and other options may further cut back the shortfall.

AUTHORIZING LEGISLATION AND NAS PLAN

Senator Andrews: The authorizing legislation which the Administration is proposing in conjunction with the FAA's 1983 budget request would finance the entire $450 million Airport Development Grant program and a large portion of other FAA programs. How much of your proposed expenditures are tied to the National Airspace System Plan?

Response: The National Airspace System Plan has been presented to this and other Congressional committees, and characterized as "preliminary", while it undergoes reviews both within and outside the Administration. In general, all of our proposed FAA requests before you are in consonance with our proposed National Airspace System Plan.

The Plan is most specifically linked to the Facilities and Equipment (F&E) appropriation request, although there are a number of F&E projects before you not specifically addressed in the Plan. These are in-service engineering funds and projects of a local nature which have been generated by our regions, Technical Center, and field facilities, and are required to correct site-specific problems. The Plan, on the other hand, addresses the requirements for modernizing and improving air traffic control and airway facilities on a national or systemwide basis.

Finally, the Plan addresses a 20-year time period, and we are quite confident that whatever changes appear in its final, fully approved form will have very little impact on the first-year request now before you. However, should any results from the reviews significantly impact the projects detailed in our requests, we will convey that information to you promptly.

HIGHWAY BRIDGES

Senator Andrews: Mr. Secretary, in testimony before this committee last year, you provided tabular material for the record (page 692) which identified bridges that were deficient and estimated the cost of replacement and rehabilitation. Please update that table for the record at this point.

Response: We would be glad to provide the requested information.

(the information follows)

Bridge Classification	December 1980	December 1981
Inventoried Off-System Bridges		
Structurally Deficient	31.0%	33.4%
Functionally Obsolete	25.4%	27.4%
Inventoried Federal-Aid Bridges		
Structurally Deficient	9.2%	10.5%
Functionally Obsolete	14.8%	15.5%

Current Estimate of Costs
(in billions of dollars)

	Replacement	Rehabilitation	Total
Off-System Bridges	$18.8	$ 4.2	$23.0
Federal-Aid Bridges	14.1	10.5	24.6
Total	$32.9	$14.7	$47.6

HIGHWAY BRIDGE COSTS

Senator Andrews: The material you provided to us on bridges last year estimated the total cost of replacement and rehabilitation of both off-system and Federal-aid bridges as $41.1 billion. In a recent press release (March 1) you noted that the proper rehabilitation and replacement of bridges will cost almost $60 billion. Please provide for the record a detailed reconciliation of how these estimated costs appear to be escalating so rapidly. What is your plan to improve this situation?

Response: Based upon eligibility criteria for the Highway Bridge Replacement and Rehabilitation Program, our current estimate of bridge needs for all bridges on public highways is $47.6 billion.

In addition to these needs, the 1981 Highway Act broadened the scope of the Interstate program by expanding the Interstate 3R program to include a fourth R, Reconstruction. A substantial part of this work on existing bridges would not be eligible for the Highway Bridge Replacement and Rehabilitation Program. These Interstate 4R needs include vertical clearance adjustments of Interstate bridges on designated routes; correction of inadequate bridge widths, bridge rail, horizontal clearances to piers, etc.; correction of serviceability problems including inadequate waterways, foundations, protection of piers against ship collisions and increasing the load capacity of existing H 15 bridges; and rehabilitation of deteriorated Interstate bridge decks. The needs add up to about $9.6 billion.

The $47.6 billion plus the Interstate 4R needs of $9.6 billion total $57.2 billion, when rounded off, totals the $60 billion mentioned in the March 1 speech.

The $6.5 billion growth since last year in bridge needs based upon highway bridge replacement and rehabilitation program eligibility results primarily from three factors:

-- Inflation.

-- Nearly all off-system bridges are now inventoried where last year only a conservative projection based on the then inventoried 86 percent was included.

-- An increase in the number of Primary system bridges reported as deficient.

Because the transportation portion of the President's New Federalism proposal is still under development and refinement, the precise nature and funding provisions for the future bridge program cannot now be defined.

However, it will take the combined resources of all levels of government to solve national bridge problems. Even if funding for the Federal program were increased substantially, significant State and local initiatives would be required to ensure the continued usefulness and safety of highway bridges. The bridge problem is a State, local and national problem, and each level of government will have to bear its share.

The future Federal role should concentrate principally on bridges on Primary system highways that are interstate in character and operation.

HIGHWAY TRUST FUND

Senator Andrews: Highway Trust Fund expenditures are expected to exceed revenues again this year, while highway construction and maintenance costs continue to escalate. Meanwhile, motorists have curtailed their travel and automobiles have become more energy efficient, resulting in lower fuel consumption levels. What actions have you already taken to keep the Highway Trust Fund strong for future years?

Response: I am a strong supporter of the Highway Trust Fund, because it provides a dedicated, dependable financing source for the Federal-aid highway program. As you know I have advocated within the Administration that highway user charges be raised to provide additional revenues into the Trust Fund. I recently presented this proposal to the Cabinet Council and it is still under consideration. With or without a user charge increase, it is essential that the Highway Trust Fund be extended and we will be proposing such in our upcoming highway legislation.

DEREGULATION

Senator Andrews: Because of recent administrative initiatives in the area of trucking, rail, and airlines, the transportation marketplace will be changed considerably in the coming years. What do you think these changes will be? Do you see any potential conflicts?

Response: The transportation marketplace will closely resemble other parts of the U.S. economy where free competition, rather than regulation, has been the guiding force. Firms in all modes will be freer to compete. Artificial restrictions on both intermodal and intramodal competition will decline. Firms will not be afforded the protection of regulatory agencies but will have to stand on their own feet. Those firms that can identify demands for transportation services and efficiently mobilize resources to meet those demands will prosper. Those firms which are not skillful in meeting public preferences for transportation services will tend to decline in importance and many may be eliminated. Transportation markets will be more dynamic and less locked into static positions imposed by regulation. We will tend to see shares of the transportation market determined by inherent advantages of particular modes rather than by some set of balances considered appropriate by regulatory commissions. Although it is not possible to make precise predictions, to the extent that regulation protected and subsidized certain transportation suppliers and users, some firms, industries, regions and communities may have less business, a decline in previous forms and/or levels of transportation services, and higher costs. However, for the nation as a whole, deregulation will bring better, more efficient transportation with a better mix of transportation price/service options provided at a lower overall resource cost.

EFFECT OF RAIL DEREGULATION

Senator Andrews: Many state and federal officials are concerned that rail deregulation will result in increasing shipment by truck of heavy agricultural products and energy materials that were previously shipped by rail. These heavy and frequent loads, according to the General Accounting Office, may be shipped on roads not designed for such purposes and thus aggravate the already serious problems of deteriorating highways. What effect do you think this will have on state and local financial needs and what is your recommended federal policy in this regard?

Response: First, it is probably true that rail rates on many commodities will be increased under the provisions of the Staggers Act, particularly those permitting increases in rates not fully compensatory, and increases to cover the railroads' rising costs. However, this will not necessarily result in substantially reduced rail traffic. Railroads now have the flexibility to either raise or lower rates to attract desirable traffic. We believe the railroads have the incentive to compete more aggressively with trucks, particularly for long-haul grain movements that have been diverted to trucks in recent years. For example, deregulation of railroads' fruit and vegetables traffic has permitted the railroads to compete more effectively for this business. In fact, the railroads are now earning back some of the market they had lost to trucks during the years railroads were tightly regulated. Likewise, railroads' "piggyback" traffic was deregulated last year and some freight has shifted from trucks to piggyback rail service since then.

Second, the Staggers Act affords railroads and shippers several new opportunities that can result in improved rail service at rates acceptable to both parties. Most notable is the new freedom for railroads and shippers to negotiate long-term transportation contracts, guaranteeing that a certain type and volume of service will be available at the agreed upon rates.

The Staggers Act did not change the Interstate Commerce Commission's standards for evaluating railroad proposals to abandon service, although the process for deciding abandonment cases has been expedited somewhat. Abandonment of uneconomic branch lines will continue, but those lines most likely to be abandoned are those that shippers have already largely deserted in favor of truck transportation. On those lines still carrying traffic, options provided by the Staggers Act may relieve the pressure for abandonment. The feeder line development program allows shippers and communities the opportunity to subsidize or purchase lines proposed for abandonment, while the provision for surcharges on light-density lines facilitates full recovery of the costs of operating those lines, and thus may obviate the need for abandonment.

Finally, recent studies by Purdue University as well as the General Accounting Office (GAO) suggest that abandonment of railroad branch lines does not have a major effect on the deterioration of rural roads and bridges. Although the GAO recognizes in its report on grain transportation the potential for future increases in truck traffic attributable to abandonments in the States of Kansas, Iowa, Montana, and North Dakota that its staff visited, it found that the impact of abandonments on rural roads and bridges has been minimal. A far larger problem for State and local bodies maintaining highways and bridges is the overloading of trucks, both for grain and coal, and inadequate local enforcement of truck weight limits.

Now, to answer the question, to the extent that diversion of branch-line traffic to highways does occur, it is primarily a localized problem and not one for which Federal programs are very effective. Where it does affect the Interstate System, the increased program levels that we are proposing for Interstate highway rehabilitation would be available to deal with this problem. For those highways which are used principally for State and local traffic, the President has proposed to include half of the Federal fuel tax in the New Federalism initiative which will make funds available to State and local authorities for this type of local problem.

EFFECT OF AIRLINE DEREGULATION

Senator Andrews: What changes in the essential air services provided to small- and medium-sized communities have occurred since airline deregulation?

Response: Since passage of the Airline Deregulation Act a general route rescheduling has occurred in which larger carriers have in many cases reduced or eliminated service at many cities that seemed unsuited to their current operations or future plans and added service at other communities. This restructuring has been spurred by the fall of traffic due to the economic effects of the recession. Carriers have left markets that might be profitable in better times and have cut back capacity in other markets.

However, the smaller commuter carriers have been extremely responsive to the demand for air service at small- and medium-sized communities, replacing service reduced or abandoned by larger carriers.

While some small- and medium-sized communities no longer enjoy the luxury of large jet equipment which is uneconomical to operate in thin markets, in many cases these communities enjoy more frequent service at more convenient departure times provided by the smaller carriers, enabling these communities to tie into the national air transportation system with available seats more than adequate to accommodate the traffic. In addition, the total travel time is rarely greater and in many cases actually slightly less than it was with the larger jet service.

Since the ADA was passed, only two communities receiving certificated air service as of the date of the Act have lost essential air service -- Astoria, Oregon, and Brunswick, Georgia -- and then only temporarily. Astoria's air service was lost December 29, 1978, with the community's consent, but was restored with subsidy on July 29, 1980. Brunswick lost its air service September 20, 1980, also with the community's consent. Service was resumed with subsidy on June 1, 1981.

At the present time the small carriers are fulfilling the needs for essential air service at over 200 communities in the 49 States. At over 120 of these communities service is being provided without subsidy.

BUS DEREGULATION

Senator Andrews: Following regulatory reform initiatives in railroads, trucking and aviation, there appears to be a push to deregulate intercity bus travel. What role is the Department of Transportation playing in this effort to deregulate the intercity bus industry? What specific proposals do you have? What end-result do you wish to see accomplished in this?

Response: The Secretary testified before the Senate Committee on Commerce, Science and Transportation on March 8, 1982, and before the House Committee on Public Works and Transportation on May 28, 1981, regarding regulatory reform for the intercity bus industry. The Department believes that the industry and the public would be best served ultimately by total deregulation of the intercity bus industry. In moving toward that endpoint, the Department supports H.R. 3663, provided that it is modified to include several changes proposed by the Department which were provided to the Commerce Committee as a marked-up version of H.R. 3663.

The Department's proposals would lessen the burden of Federal regulation on the bus industry by granting entry on a single fitness test, increasing individual pricing freedom, and providing for relief from the burdens that State regulation imposes on interstate bus operators. The Department believes that reliance on free competition in the marketplace, instead of a 47-year-old regulatory regime, will increase the efficiency of bus operations, enhance the industry's energy efficiency, improve profitability, and result in better service to the public.

EFFECTIVENESS OF THE ICC

Senator Andrews: Recent legislation has substantially reduced the Interstate Commerce Commission's regulation of the trucking, railroad and household goods moving industries. In your opinion, is the ICC responding effectively and efficiently to its changed role and responsibilities?

Response: We believe that generally the ICC has moved vigorously to implement the regulatory reforms of the Motor Carrier Act of 1980, the Staggers Rail Act of 1980, and the Household Goods Transportation Act of 1980. Since the passage of these Acts, the Commission has conducted a number of rulemakings which removed restrictions on firms in these industries and stimulated competition. The Department has filed statements in most of these rulemaking proceedings to encourage the Commission to take maximum advantage of the opportunities to substitute the operations of the marketplace for the dead hand of government regulation. We believe that we have been successful in many instances in persuading the Commission to be more flexible in its interpretation of the statutes. Affected firms and industry associations have attacked several of the Commission's procompetitive rulemakings in the courts. We have some concern that the Commission may have become overly cautious as a consequence.

TRUCK SIZE AND WEIGHT LIMITS

Senator Andrews: The Department of Transportation has recently released a study looking at various scenarios for establishing uniform truck size and weight limits. While no recommendations were made, the report clearly indicated that increased size and weight limitations would likely result in significant transport cost savings. What position are you taking with regard to truck size and weight standards? Do you plan to submit legislation?

Response: The Study you have referred to, "An Investigation of Truck Size and Weight Limits" was submitted to the Congress on October 2, 1981. The report concluded that transport cost savings could result from increased size and weight limits. However, the report also indicated that highway pavements and structural members of bridges are affected by gross vehicle weight and axle spacing requirements. Accelerated pavement and bridge wear and tear affect the expenditure levels required by highway agencies to maintain the condition of the Nation's highways and bridges.

For these reasons, the Department has maintained that legislation on truck size and weight limits needs to be considered and developed in concert with changes to user charge levels. As you may know, the Department is scheduled to release the Highway Cost Allocation Study in the near future. This Study will present the results of a study of the cost responsibility of the various highway user vehicle classes. In addition, the Cabinet Council on Economic Affairs has taken the issue of highway user fees under consideration. Once final decisions are reached within the Administration, the Department plans to submit a coordinated postion on both the issue of truck size and weight and highway user charges to Congress.

COAST GUARD ROLES AND MISSIONS

Senator Andrews: The Roles and Missions Study is scheduled to be transmitted to the Congress by March 31, 1982. Can you tell us if this schedule is still being adhered to? If not, what are the delays holding up this report?

Response: The Roles and Missions Study will be completed and transmitted to the Congress by March 31, 1982.

INTERDICTION OF ILLEGAL IMMIGRANTS

Senator Andrews: Submitted along with your 1983 budget was a request for supplemental funds in 1982 for the Coast Guard to interdict the illegal flow of Haitians into this country. Do you see this as a permanent addition to the many missions of the Coast Guard?

Response: Law enforcement is the Coast Guard's oldest mission, dating back to the days of the Revenue Marine, which first enforced immigration laws in 1862. The interdiction of illegal migrants flowing from Haiti is simply another maritime law enforcement mission and, therefore, not an addition to the many missions of the Coast Guard. However, the level of activity required to carry out the current effort clearly exceeds the program levels for which the Coast Guard had originally planned and budgeted. Therefore, additional funding is required in fiscal year 1982. The continuation of Coast Guard's presence off Haiti after fiscal year 1982 is contingent on a determination by the President that the need continues to exist.

IMMIGRATION AND DRUG INTERDICTION POLICY

Senator Andrews: What input do you have into the development of Administration policies on the control of the immigration of illegal aliens? On drug interdiction?

Response: The Coast Guard is the principal representative of the Department in interagency efforts to control immigration and drug traffic. The Coast Guard represents the Department on the White House Drug Oversight Working Group chaired by Carlton Turner, Senior Policy Advisor for Drug Enforcement. The Coast Guard also represents the Department on special task forces such as the Vice

President's Task Force on Miami Crime and in the El Paso Intelligence Center (EPIC) activity.

The Federal Aviation Administration also is involved in these areas. The FAA has agreements with such agencies as the U.S. Customs Service and the Drug Enforcement Administration to permit these agencies to use FAA equipment such as radar in the Miami and Houston areas in their surveillance activities. The FAA also recently promulgated an NPRM to require the mandatory filing of flight plans for all aircraft regardless of size entering coastal and border areas.

RECREATIONAL BOATING SAFETY

Senator Andrews: Taxes have been collected, and are reserved in a special fund at the Treasury, for recreational boating safety. What is the total amount of those funds to date? Why has only $5 million been requested in the fiscal year 1983 budget? What use would you propose to make of the remaining funds?

Response: The Recreational Boating Safety and Facilities Improvement Fund balance is limited to $20 million. That is the current balance of the Fund.

The $5 million requested for fiscal year 1983 for distribution to the states is considered an adequate level of funding to support increased State Boating Safety programs. Significant funding had been provided in previous years as seed money for state program development under the State Boating Safety Assistance Appropriation (SBSA). The SBSA program was terminated in fiscal year 1979 after states had developed satisfactory programs of their own. Additionally, the Coast Guard and Coast Guard Auxiliary continue to provide considerable boating safety services to states and the public. No funding was requested for boating facilities since this is considered a more appropriate responsibility for local government and the private sector.

Remaining funds will be used to finance future boating safety programs as required, subject to extension of current authorizations and appropriation of the necessary funds.

SEAT BELTS

Senator Andrews: Last October, the decision was made to shift away from the "Passive Restraint" program and instead to promote the voluntary use of seat belts. A nationwide publicity effort was promised and as I understand it, the program is now underway. What specific measures do you intend to use to weigh the effectiveness of this effort?

Response: Let me begin by saying that the agency's safety belt program is not a substitute for passive restraints. When we discovered that the agency had done nothing in the past few years to encourage the use of safety belts already in all cars, we immediately launched the program to fill this gap. Even if the decision had been to retain the passive restraint standard, an educational effort of this type would be needed: first, to help prevent the 14,000 some deaths that would occur each year until all cars were equipped with passive restraints, and second, to convince people to use rather than disconnect passive belts.

With regard to your question on evaluation of the safety belt program, we plan to evaluate the program in three stages. Our research shows that we must reach large segments of the population with credible spokesmen and a credible message to convince them to use safety belts. We plan to do this by working through the existing social and civic organizations to which people belong--schools, churches, their doctors, employers, and the media, by which we mean the television shows they watch and the newspapers they read, in addition to the usual public service advertising. This campaign has been designed to succeed in that it will not rely solely on advertising but will involve large segments of society itself.

We will be measuring our success by first evaluating whether we are reaching people. Are we obtaining participation in the program from various organizations and how many individual programs to educate and deliver the safety belt message have been established?

Second, we will determine, once the programs are in place, whether public awareness of the issues involved increases and whether the public understands that a large scale organized campaign like the anti-smoking and high blood pressure programs is underway. We have conducted baseline awareness surveys and will be measuring success against this data.

Finally, and much further along in the program, we will be looking at actual belt usage statistics. We will be examining such factors as usage in geographic areas, time of day, type of trip and type of vehicle. We do not anticipate overnight success and that is why our commitment is for a sustained, comprehensive program. We know from experience in other countries that increased safety belt usage is not achieved overnight--that it takes years of sustained, active efforts to educate and inform the public and constant reinforcement of the message that safety belts are important, lifesaving devices and should be used each time we ride in a car.

HAZARDOUS MATERIALS

Senator Andrews: Many experts believe that with the current system of dispersed responsibility for regulating the transportation of hazardous materials, it will be impossible to provide long-range planning, establish uniform safety objectives, and effectively use resources for administering the Hazardous Materials Transportation Act. There are those who advocate the consolidation of activities performed by RSPA, FAA, Coast Guard, and FRA into a single, manageable program. Have you undertaken any efforts to develop a central management scheme for the Department's Hazardous Materials Program?

Response: Almost ten years ago, the General Accounting Office issued a report criticizing DOT for failing to establish a centralized hazardous materials program. At that time (1973), DOT was six years old and was the first Federal department to be assigned total authority for hazardous materials transportation safety after almost a century of Federal involvement. The hazardous materials program was administered under the terms of the Department of Transportation Act which specifically precluded the Secretary from directly administering any of the Department's safety regulatory programs (except marine safety). Instead, such authority was vested directly in the several Administrators. In order to maintain some policy control over the Administrators, the Secretary was forced to create and staff an elaborate internal review system. Thus, the situation which the GAO criticized was one which had been legislatively mandated.

This unsatisfactory arrangement was finally eliminated in 1975 when the Hazardous Materials Transportation Act (HMTA) granted the Secretary full control of the Department's hazardous materials program with authority to set Department-wide regulations without going through the modal Administrators. In July 1975, exercising the new authority granted by the HMTA and existing authority under the Natural Gas Pipeline Safety Act of 1968, Secretary Coleman created the Materials Transportation Bureau (MTB).

The creation of MTB brought about the most complete centralization of hazardous materials transportation safety regulatory activities in the Nation's history. MTB was given exclusive responsibility for:

- Development and issuance of safety regulations governing the transportation of hazardous materials by all modes, except bulk-by-water.
- Representation of the U.S. at meetings of international standards-setting bodies concerned with transportation of hazardous materials.
- Development of training programs for government and industry personnel involved in hazardous materials transportation.
- Collection, analysis and dissemination of information concerning hazardous materials transportation.

The only function which was not assigned exclusively to MTB was enforcement because consolidation of this activity was simply not efficient. The modal administrations all had enforcement programs which would have continued regardless of who exercised enforcement jurisdiction over the hazardous materials transportation safety regulations. Therefore, rather than duplicating the enforcement capabilities of the modes and thereby subjecting the transportation industry to yet another body of Federal inspectors, the Secretary delegated enforcement authority to each of the modal administrations for those hazardous materials transportation safety regulations affecting the respective modes. MTB was delegated enforcement authority for those regulations governing pipeline safety and intermodal transportation (e.g., container manufacturing standards). This decentralized approach to enforcement also recognized the inherent public safety role to be played by existing State and local enforcement agencies. With a uniform body of safety standards, compliance could be ensured by properly trained enforcement groups at any level of government.

Thus, the only element of the Department's hazardous materials transportation safety program which has not been consolidated under a single organizational element is enforcement.

Nevertheless, in 1981, the NTSB issued a report which concluded that the organization of the program was insufficient to ensure long-range planning, establishment of Department-wide objectives and effective use of limited resources. We feel that the facts do not support this conclusion.

All hazardous materials program functions except enforcement are centralized in MTB with a single planning, budgeting and management process. Enforcement, while budgeted and managed along modal lines, is planned through extensive Departmental coordination. For over a decade, the Department has held monthly Intermodal Hazardous Materials meetings concerning matters affecting hazardous materials regulation. Recently, the increase in the Department's hazardous materials inspection and enforcement activities prompted MTB to establish a separate monthly intermodal meeting on enforcement issues alone. Items covered at these meetings include: recent interpretations affecting enforcement of the regulations; coordination of inspections by each administration to prevent duplication of effort; and problems arising from specific cases, court decisions, etc., that could affect future actions.

In conclusion, the Department has organized the hazardous materials transportation safety program in a manner which enables it to achieve maximum consolidation of program control consistent with efficient resource utilization in achieving its dual objectives of: (1) minimizing the public safety risk inherent in the transportation of hazardous materials by all modes, and (2) reducing the regulatory burden on commerce to the maximum extent consistent with public safety.

HM-164

Senator Andrews: The Department of Transportation has issued a rule (HM-164) on the routing of radioactive wastes over interstate highways, which preempts existing State and local laws that now restrict these movements. Is this a foreshadowing of similar and soon-to-follow preemption rules on the transport of other hazardous materials? What is your position on this?

Response: The Department has no current plans to issue preemptive rules on the routing of other hazardous materials. Radioactive materials are unique, at least to date, in that they have been the object of numerous local bans and other severe transportation restrictions. HM-164 was largely the result of the Department's conclusion that these restrictions not only were unnecessary, but were counterproductive from the perspective of overall public safety.

As you may know, on February 19, 1982, the Federal District Court for the Southern District of New York held that HM-164 is invalid insofar as it overrides nonfederal bans on truck transportation of large quantity radioactive materials through densely populated areas. If this holding is ultimately upheld, it is possible that the Department would be prevented from issuing similar preemptive rules for other materials.

STUDIES ON SAFETY OF NATIONAL AIRPORT

Senator Andrews: In the wake of the Air Florida crash of last January, there has been a great deal of discussion on safety procedures at National Airport. Appreciating the fact that investigations are still underway as to the cause of the crash, has DOT initiated any studies of how safety could be improved at National? (For example, through lengthening the runway or better rescue equipment and plans regarding waterside crashes.)

Response. While awaiting the results of the NTSB investigation and any recommendations therefrom, we have not started any separate studies. We have, however, continued to actively pursue several safety programs which grew out of earlier internal evaluations. We are well along in a program to replace our older crash, fire rescue vehicles at both National and Dulles airports with new technology equipment. We will continue to exceed the required levels at both airports. On the longest runway at Washington National, we are continuing to make progress in planning for a project to extend and upgrade the runway safety overrun areas. If the funds included in our FY '83 request are, in fact, appropriated, we expect to begin construction this fall. Our water rescue capability has been upgraded by the addition of a fourth boat and intensified planning with other jurisdictions with water rescue capability.

U.S. VS. JAPANESE PILOT SAFETY STANDARDS

Senator Andrews: Also along safety lines, can you explain the similarities and differences in pilot safety standards between the U.S. and Japan? Under current FAA safety standards, would a pilot in a condition similar to that of the pilot of the Japan Airlines plane that recently crashed be allowed to fly?

Response: Medical standards for pilots are specified by the International Civil Aviation Organization (ICAO). Japan is a member of ICAO and applies those standards.

U.S. Medical standards are essentially the same as ICAO standards, particularly in the psychiatric area. (In 1970 ICAO adopted psychiatric standards identical to the U.S. standards.)

Despite considerable effort to obtain information from Japan concerning the specific nature of any medical condition affecting the Japanese pilot, we do not know his medical condition or history in sufficient detail to determine if he would meet ICAO or U.S. standards.

Background information - efforts to identify pilots with psychiatric problems.

- Application for medical certificate, completed by pilot, contains a number of questions that are directly or indirectly relevant to psychiatric appraisal.
- Guide for Aviation Medical Examiners provides instructions for making an appraisal of mental status of pilot applicants.
- Aviation Medical Examiners (AME's) are required to periodically attend seminars conducted by the FAA. An important section of each seminar deals with techniques of mental assessment of pilot applicants.

AVIATION SAFETY

Senator Andrews: What adjustments and restrictions have been established as a result of the air traffic controller strike last year?

Response: The major adjustments are: flow control restrictions, including hourly slot allocations for air carriers and general aviation; resectorization of air route traffic control centers, including transfers of airspace between centers and possible center consolidations; expansion of terminal enroute control to relieve the centers of low altitude activity; the temporary closing of some low-activity towers and reduced hours of operation at others; staffing changes such as the temporary use of military controllers and the hiring of furloughed airline pilots to perform flight data functions.

Senator Andrews: How long do you expect these accommodations to remain in place? Specifically, how do they work and by what criteria do you make your decisions?

Response: Flow control programs and restrictions will be implemented at any time air traffic congestion occurs or is anticipated to occur at either an enroute air route traffic control center or an airport terminal area. The slot allocation process for air carriers and general aviation will be wound down with an end to the programs expected by December 1983.

Resectorization of air route traffic control centers and possible consolidation of facilities will continue to occur for the most efficient use of airspace and optimum utilization of personnel. Expansion of terminal enroute control will also continue for the foreseeable future as it provides a better balance of the use of airspace and facility resources.

Few, if any, of the temporarily closed facilities will be reopened before 1983.

Most of the military controllers will be returned to their commands by the end of September 1982.

The temporary positions currently occupied by furloughed airline pilots are to be converted to permanent positions by September 1982 and will become a part of the future structured staffing of each air route traffic control center.

Flow control programs regulate the hourly rate of aircraft into a given airport. The rate changes frequently based upon the acceptance rate of the airport. Factors that influence flow control programs are sudden changes in airport acceptance rates because of runway changes, airport weather phenonema, or any situation when airport demand exceeds airport capacity.

Flow control restrictions are established between facilities daily, by the Central Flow Control Facility in FAA headquarters, to space aircraft that are flying the same route a certain distance apart. This prevents bunching or congestion of aircraft and balances the workload of controllers involved.

Decisions on flow control programs or restrictions are made by measuring aircraft demand versus airport capacity through a sophisticated computer system and by coordinating directly between the Central Flow Control Facility and the supervisors of the affected air route traffic control centers or terminal facilities.

FAA COMPUTER PROCUREMENT

Senator Andrews: The GAO has found that Public Law 89-306 would be violated if FAA continues its currently planned procedure for procuring new computers to modernize the air traffic control system, and that the Department's order exempting FAA's computers from this law is invalid. What actions are you taking to remedy this situation?

Response: The FAA has formulated a sound, comprehensive plan for an integrated system of computers, other electronic components, and telecommunications to produce more manageable, safe, and efficient control of the Nation's airspace. Singling out any component of the system for separate management, such as the computers, could impair the integrity of the whole system and acquisition schedule. Although commercially available computers will be used, some difficult modifications must be made to the operating system computer programs.

Since this computer is part of a totally integrated air traffic control system, it is very similar to those that, under Public Law 89-306, have been determined eligible for acquisition within the authority of a Department head.

We recognize, however, that under Public Law 89-306, the authority to acquire commercially available computer systems which have not been specifically determined to be components of operational equipment and which are not therefore within the purview of a Department head, resides with the General Services Administration (GSA). GSA may delegate this authority to departments while retaining certain oversight prerogative, and we will ask the GSA for such a delegation. We have complete confidence in the FAA Administrator's ability to acquire and manage that system, and members of my staff will participate through a well-established Departmental management process to assure that sound management and budget principles are followed. We will also ask GSA to join with us in maintaining the integrity and schedule of this important system. We are confident that, as a result of your review, you will also want to encourage the GSA, other central agencies, and the Congress to support these goals.

AUTO INDUSTRY

Senator Andrews: The auto industry sits at the center of this country's manufacturing economy. In January 1981, the Department of Transportation released a study looking at the condition of the U.S. auto industry and making certain recommendations. Mr. Secretary, what have you done in the past year to help the still-ailing auto industry? In your opinion, what more can you and should you do?

Response: Our domestic manufacturers have made a good beginning in modernizing plants and in improving productivity. However, these beginnings have put further strains on already depleted capital. To compete in the world market, U.S. manufacturers must match the quality, reliability, fuel economy, and price of vehicles made in Japan and Europe. We believe that the Government's policy is now set on a course to create a healthier economic environment. The U.S. auto industry will experience change, but there is every reason to believe it will continue to play its central role in the American economy.

CONRAIL

Senator Andrews: For the third quarter of 1981, Conrail reported net income of $64.9 million, and for the first nine months of 1981, a net income of $12.8 million was reported. Because of this remarkable financial progress, Conrail should be becoming more and more attractive to potential buyers. Please detail progress you have made in selling Conrail on the private market as required by the Northeast Rail Services Act of 1981, and have you named an investment banker yet?

Response: Conrail's improved financial performance and plans for more improvements argue strongly that Conrail can be transferred to the private sector successfully. The actions we have taken to divest the Government of its investment in Conrail are largely related to making Conrail more salable to the private sector. Examples of our actions: helping Conrail in their cost-cutting program and supporting them in their ICC proceedings (such as abandonments).

We hope to be able to contract for the investment banker services called for in the August 1981 legislation within a month. The cost, which may be a percentage of the sale, is one factor that will determine whom we select. We are considering all possible options including a public stock offering. With respect to Conrail's sale, it should be noted that any serious buyers are likely to hold back while Conrail continues its cost-reduction program.

CONRAIL COMMUTER SERVICES

Senator Andrews: Conrail is to turn over its commuter services to either those localities currently being served or to Amtrak Commuter Services. What progress has been made on this? Do you have any projections at the current time as to how much of this service will be taken over by localities and how much will move to Amtrak Commuter?

Response: Progress is being made to ensure an orderly, timely, and successful separation of Conrail commuter passenger and freight services as a result of the following efforts.

1. Regulations for the distribution of $45 million to facilitate the transfer of rail commuter services from Conrail to other operators were published as an Emergency Interim Final Rule on February 4, 1982, with 45 days provided for comment (subsequent changes possible).
2. FRA has awarded a contract to Booz-Allen & Hamilton, Inc. for the development of an implementation plan for the activation of Amtrak Commuter Services Corporation (ACSC). Work started February 1, 1982 and will be complete April 1, 1982. Effort is currently on schedule and within budget.
3. To assist commuter agencies in reaching their April 1, decision, ACSC issued a prospectus on March 15, 1982 which includes a discussion of the transition process, issues, and problems; a description of ACSC's policies and objectives; and the proposed terms and conditions under which ACSC will operate rail services and/or provide other services.
4. ACSC has met with representatives of all of the commuter authorities, and solicited their respective

recommendations as to ACSC's optimum organizational structure and policy objectives, to assure maximum ACSC responsiveness to commuter authority needs.

5. To address the issues and concerns common to all commuter authorities, ACSC has organized four working Task Forces, in the areas of labor, accounting, inventory, and administration. These Task Forces, comprised of experts from each of the commuter authorities and chaired by an ACSC representative, have already met and agreed on concrete actions in each of these areas. The task forces should serve as the focal point for the definition and execution of these tasks on a coordinated basis, regardless of whether or not the agencies have elected to utilize ACSC to operate their commuter rail service.

6. ACSC has met with rail labor representatives, and has engaged an expert rail labor specialist, who is now formulating a comprehensive labor relations strategy, in an effort to address the varying labor concerns of ACSC and each of the commuter authorities.

7. ACSC has awarded a contract for the development of accounting and payroll systems meeting the requirements of all of the commuter authorities--with the understanding that such systems must be on-line and functioning prior to January 1, 1983. The work will be completed by April 15.

8. ACSC has authorized its general counsel to undertake a comprehensive review and analysis of major legal issues applicable to the transition process; this analysis is now underway, and ACSC has begun preparation of a proposed form of implementing agreement.

With respect to commuter service takeovers, all of the foregoing activities have established a good working relationship between the commuter authorities and ACSC. However, because the decisions concerning complex issues such as financing, labor needs, and administration remain under active consideration it is not feasible to predict which authorities will or will not take over service.

RAIL SAFETY

Senator Andrews: Over the last several years, the collective safety record for railroads has been improving both in terms of cost and total accidents. Can you tell us why certain railroads are safer than others, and what role DOT plays in working to improve the safety records of the less careful carriers?

Response: While some carriers do not achieve a safety record as good as the industry average, I would not characterize any railroads as being "less careful" than others. Overall, railroad safety performance has improved substantially in recent years, and this is a tribute to the safety commitment of labor and management throughout the industry.

Admittedly, certain railroads have had particular safety problems. We have implemented a program to assist these roads in a cooperative spirit. The results have been most encouraging, and we are going to expand the program.

LOAN GUARANTEE AND SUBSIDY PROGRAMS

Senator Andrews: The Department is proposing to cut back on various Loan Guarantee and Subsidy Programs to private sector firms. Please detail these various cutbacks by mode and what their projected impact will be.

Response: The Department's proposed 1982 and 1983 subsidy, loan, and loan guarantee levels to private sector firms and their impacts are as follows:

Federal Aviation Administration

	Program Level	
	1982	1983
	(dollars in 000's)	
Aircraft Purchase Loan Guarantee Program (Commitment Limitation)	$50,000	---

The program for guarantee of aircraft purchase loans under the Aircraft Loan Guaranty Act, P.L. 85-307, as amended, expires on October 23, 1983. The Budget proposal to reduce the FY 1982 commitment limitation from $100 million to $50 million and to propose that no new loan commitments be made during FY 1983 reflects the determination that the program's purpose in facilitating deregulation and service to small communities has been served. No adverse impact on service to small communities is expected to occur with the termination of the program.

Federal Railroad Administration

	Program Level	
	1982	1983
	(dollars in 000's)	
Loan Guarantees (Commitment Limitation)	$135,000	---
Preference Shares	60,500	---

The Department proposes termination of the railroad financial assistance programs established pursuant to Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). Termination of these programs is expected to have minimal adverse impact on the rail freight industry.

FRA's loan guarantee program has financed freight car and locomotive repairs, track rehabilitation, and labor protection payments. Although $1 billion has been authorized for FRA's loan guarantee program, only $247.7 million has been obligated. For FY 1982 we propose reducing the existing commitment limitation from $270 million to $135 million, and for FY 1983 no new loan commitments are proposed. Demand for this type of assistance is low because of the relatively high interest rate.

The preference share program has been used to correct problems resulting from deferred maintenance on high-volume mainline trackage. A total of $1.4 billion has been authorized for this program of which $599 million has been appropriated.

Including the $60.5 million appropriated for FY 1982, $129 million remains to be obligated, and this will be enough to satisfy the meritorius projects which FRA is currently considering. Legislative authority for preference share funding expires at the end of this fiscal year.

Railroads and their users are now able to resolve rail problems without direct Federal involvement. This is due to the industry's improved financial health, the marketing freedoms provided by the Staggers Act, and the financial tools for self-help incorporated in the Economic Recovery Tax Act. Financial assistance to rail freight carriers should be made consistent with broader Federal policies and should recognize the industry's recent financial trends. There is therefore no need for new authority to fund either the rail loan guarantee or preference share programs.

Maritime Administration

	Program Level	
	1982	1983
	(dollars in 000's)	
Operating Differential Subsidies, Budget Authority	$414,899	$406,821
Title XI Loan Guarantee Commitments (Annual Limitation)	675,000	600,000

For 1982 we are proposing a limitation of $675 million compared to $900 million planned at the year's outset. In proposing an essentially level program in 1983, the Government will continue to meet its obligations on existing operating subsidy contracts.

In light of the annual loan guarantee ceilings proposed for FY 1982 and FY 1983, the Maritime Administration has curtailed its consideration of certain vessel types (e.g., LNG loan guarantees) and is limiting the availability of Title XI financing to amounts not exceeding 75 percent of actual vessel cost for vessels that would qualify for up to 87-1/2 percent financing guarantees under the terms of the Act. Additionally, MarAd is implementing a system of priorities based on the contribution of the vessel and project to the development of the foreign and domestic commerce of the United States and its desirability as a naval and military auxiliary in time of war and national emergency. The ceilings proposed are adequate to provide assistance to potential applicants most essential for achieving the Nation's Merchant Marine objectives.

ST. LAWRENCE SEAWAY

Senator Andrews: A bill (S. 422) has been introduced which provides for the extension of the period of repayment of revenue bonds issued by the St. Lawrence Seaway Development Corporation to the Secretary of the Treasury from 50 years to 80 years. What is your position on this legislation?

Response: S. 422 is one of several alternatives which merit consideration in examining the long-term problem of repayment of the remaining debt of the Corporation. Other alternatives include further debt restructuring, conversion of the debt to equity, increased tolls, and forgiveness of the debt.

Senator Andrews: Two other bills (S. 810 and S. 809) have been introduced which provide for the recovery of operation, maintenance, and construction costs for deep draft channels as well as ocean and Great Lakes ports of the U.S. It also calls for recovery of capital and operation and maintenance costs assignable to commercial waterway transportation for certain Army Corps of Engineers projects. What will be the impact of this legislation on use and fee structure of the Seaway?

Response: S. 810 excludes the Great Lakes and the Seaway from consideration. It would thus have no direct impact on Seaway fee structures. To the extent the legislation would increase the cost to commercial vessels of using other waterway systems and make Seaway routings relatively less costly, the impact on use of the Seaway would be favorable.

S. 809 would also have no direct impact on Seaway fee structures. Since the legislation would treat all deep draft ports in the same manner, the Seaway should experience little or no change in its competitive position.

VALUE ENGINEERING

Senator Andrews: You testified last year, Mr. Secretary, that you anticipated continuing to advocate more widespread use of value engineering. What progress have you made in this regard?

Response: The application of value engineering continues to produce savings in the design and construction of various DOT-funded projects.

Last year FHWA sponsored 76 workshops around the country to familiarize state and county personnel with these techniques and we have plans for 35 additional workshops this year.

We believe that a promising way of reaping greater benefits closely related to value engineering is the expanded use of incentive clauses in contracts. Within the Federal-aid Highway program, we are encouraging states to adopt incentive clauses, under which contractors would receive a share of the savings from design and construction improvements that they suggest.

PROPOSED LEGISLATION

Senator Andrews: A good deal of your 1983 budget is based on the assumption that proposed legislation will be enacted. To date, we do not have these legislative proposals. When can we expect to have these proposals before us?

Response: The Department has forwarded to Congress approximately half of the legislation needed to carry out the FY 1983 budget. Most remaining legislation is in the final stages of review, and we hope to provide Congress with detailed proposals within the next few weeks. The FY 1983 budget described the outlines of needed legislation as precisely as possible prior to actual tramsmittal of detailed language, and we hope that these descriptions assist the appropriations committees in formulating their budget plans.

PAY SUPPLEMENTAL

Senator Andrews: The 1982 pay supplementals for DOT, as well as all other agencies, were not submitted on February 8 with the 1983 budget request. Can you share with us why this decision was made? Are the modal administrations being forced to make reductions to absorb the impact of the unpassed pay supplemental? When can we expect that these pay supplementals will be transmitted? What is the total amount for all of the 1982 DOT pay supplementals? Provide a detailed schedule for the record.

Response: Governmentwide pay supplementals were not submitted with the FY 1983 budget request for several reasons. First, Congressional action on most 1982 appropriations was not completed until mid-December 1981. Second, appropriations for many other agencies were provided in a continuing resolution that expires on March 31, 1982. Third, the continuing resolution and some of the recently enacted appropriations bills have provisions that require time to interpret and to administer. Consequently, only after the 1983 Budget had been transmitted to the Congress was there sufficient time to permit the kind of review that is necessary to assure the most effective and economical use of available resources to meet the cost of the pay raise. While modal administrations are absorbing a portion of the pay raise, prudent management of resources is responsible rather than the lack of a pay supplemental. Current OMB plans are for transmittal of pay supplementals to the Congress in April. The amounts to be included for the DOT are listed below.

1982 Increased Pay Costs Supplementals
(in thousand of dollars)

FEDERAL HIGHWAY ADMINISTRATION	
Limitation on General Operating Expenses	(2,829)
FEDERAL RAILROAD ADMINISTRATION	
Office of the Administrator	240
URBAN MASS TRANSPORTATION ADMINISTRATION	
Administrative Expenses	500
FEDERAL AVIATION ADMINISTRATION	
Operations	83,794
Operation and Maintenance, MWA	456
U. S. COAST GUARD	
Operating Expenses	78,100
Reserve Training	1,500
ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION	
Limitation on Administrative Expenses	(38)

OFFICE OF THE INSPECTOR GENERAL	
Salaries and Expenses	500
By Transfer	(155)
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION	
Research and Special Programs (By Transfer)	(218)
OFFICE OF THE SECRETARY	
Salaries and Expenses	1,385
By Transfer	(75)
TOTAL SUPPLEMENTAL (BA)	$166,475

NOTE: Increased pay costs for FRA Railroad Safety and NHTSA Operations and Research will be covered through reprogramming.

CLEAN AIR AND TRANSPORTATION

Senator Andrews: The Clean Air Act will undergo legislative scrutiny this year in the Congress. Since regulations concerning air quality impact on the various transportation modes, has the Department reviewed the ramifications of these changes and taken any position in this regard?

Response: The Department has been an active participant in the development of the Administration's position on amendments to the Clean Air Act. The Administration's overall position is being coordinated by the Presidential Task Force on Regulatory Relief and by the Environmental Protection Agency.

The Department has recommended the deletion of the provisions of the Clean Air Act that deal with highway funding sanctions (section 176), mandatory transportation control measures (sections 110 and 172), and "basic transportation needs" requirements (section 110). Deletion of these provisions would be consistent with the Administration's position that state and local governments should have the responsibility for deciding how the clean air standards will be met. The Federal government should not mandate particular programs nor impose funding sanctions on states which choose alternative program measures to achieve the clean air standards.

PLANS FOR TSC

Senator Andrews: A major portion of the research and development funding in the Department of Transportation is directed by the modal administrations to the Transportation Systems Center in Cambridge, Massachusetts. Given the fact that R&D spending in 1982 was reduced from the previous year by over $50 million, is it practical to continue to operate TSC strictly as an R&D center? What other programs could be operated there? What are your plans for TSC?

Response: TSC performs research, analysis, and development for all elements of DOT. In its eleven years of existence, TSC has evolved from an R&D Center doing systems engineering and hardware development to a technical resource for the Department which performs economic and cost benefit analysis, technical assistance, industry analysis, and evaluation of policy options in addition to traditional R&D. Historically, TSC has been involved in providing technical assistance to the Department in its operational responsibilities, and 13 percent of TSC's FY 82 funding comes from such non-R&D sources. For example, TSC has become more heavily involved in support of operational programs and missions, especially for the Coast Guard. TSC's technical resources are used to support technical activities throughout the Department and provide data, analysis and assessment so critical to informed decision-making.

Transportation problems outside of the Department of Transportation can be and are developed into programs at TSC. The Working Capital Fund allows TSC to receive funds from non-DOT sources. For example, the Working Capital Fund allowed TSC to provide continuity in support of the Automotive Industry Analysis work when the responsibility was transferred from DOT to the Department of Commerce. Work outside of DOT has been conducted when there is a clear linkage to Departmental concerns or, in some cases, formal Departmental agreements to do so. Historically, expansion of non-DOT funded work has been limited by the priority needs of the Department and TSC's limited resources.

TSC will continue to support the high priority needs of the Department of Transportation. Plans for the future involve continued transition from the more traditional "hardware" oriented work to continued building of TSC's capability and work activities in the information, economic, and assessment areas. TSC has increased its emphasis in these areas with activities in information systems to improve management effectiveness in DOT, a major initiative with NHTSA in drunken driving countermeasures and occupant protection, and analysis of means of further increasing the effectiveness of DOT's management of Coast Guard mission responsibilities. TSC is also involved in the Department's expanding technical assistance role to State and local governments and transit properties.

ENVIRONMENTAL ANALYSIS

Senator Andrews: Mr. Secretary, the New York Times reports that you have diminished the status of your Environment Office by making it a subcomponent of an Office of Economic Analysis. In doing so, it is reported that you are attempting to turn those decisions over to the agencies which are more directly involved in the projects. The Committee has also been informed that one of these agencies, UMTA, has riffed all but one member of its Environmental Review Office. How can the Federal Government meet its environmental review responsibilities if neither the Office of the Secretary nor a modal administration (UMTA in this case) is taking an active role in examining these concerns?

Response: The DOT Office of Environment was abolished effective March 1, 1982, as part of an overall reorganization of the Office of the Assistant Secretary for Policy and International Affairs. This reorganization was undertaken to provide a more streamlined management structure and to reflect staff reductions necessitated by budget constraints. Many of the functions of the former Office of Environment, including environmental policy formulation, review and coordination, have been retained in an environmental division which is a part of the Office of Economics within the Office of the Assistant Secretary.

While most modal administrations will have increased compliance responsibility under National Environmental Policy Act, UMTA will have limited need for environmental actions.

ADDITIONAL AC&I FUNDING

Senator Andrews: The Department has indicated that the $300 million appropriated to the Navy for transfer to the Coast Guard's AC&I budget cannot all be obligated during fiscal year 1982, and thus a two-year spending plan totalling $703.2 million was devised. If an additional $300 million were to be appropriated for the Coast Guard AC&I budget during fiscal year 1983, what would be the Department's position on the Navy spending that money directly on Coast Guard acquisitions instead of transferring the funds to the Department of Transportation?

Response: If an additional $300 million were made available in fiscal year 1983 for Coast Guard procurement, it should be accounted for and administered by the Coast Guard rather than by the Navy.

The types of procurement for which Coast Guard would use these funds would require expertise already available in their Procurement and Engineering Offices, and not necessarily available with the Navy. To have the Navy spend this money on Coast Guard acquisitions would unnecessarily burden the Navy with design, procurement, and accounting tasks that could more efficiently be handled by the Coast Guard. It is also not evident from an examination of budget schedules that funds appropriated for Shipbuilding and Conversion, Navy, are obligated at a rate substantially different from Coast Guard AC&I.

Senator Andrews: What is the Department's position on the most desirable mix between AC&I and O&M as it relates to this funding?

Response: Given our current priorities, the most desirable funding mechanism for current Coast Guard operations that fit within Coast Guard's statutory responsibility and which are performed for the benefit of the Nation as a whole, is by direct appropriation to Operating Expenses. In the event that any DOD-funded capital program generates operating costs that primarily benefit another agency or which extends beyond Coast Guard roles and missions, however, we would like to have the flexibility to come back and to recommend that an appropriate share of those operating costs be funded by the benefitting agency -- DOD in this case -- just as we have proposed for polar icebreaking services.

SEAWAY CONSTRUCTION COSTS

Senator Andrews: The waterway user fee proposals we are hearing about would essentially "forgive" capital investments made in the past for this form of transportation. What is your personal opinion, Mr. Secretary, about forgiving the construction debt of the Seaway? Would this fit within your overall policy framework?

Response: The Seaway is, of course, the only waterway which fully finances its operating and maintenance costs from user fees, and makes annual repayments of its construction debt. On two occasions it has been necessary to restructure the debt, and some action will undoubtedly be needed in the future when the annual repayment level increases markedly. Forgiveness of the debt is one such action that must be given consideration.

As part of an overall proposal for water and port user fees, I believe that the Seaway should be treated consistently, recognizing the special relationship the Seaway has with the Canadians.

QUESTIONS SUBMITTED BY SENATOR BYRD

CHARLESTON AIRPORT ILS

Senator Byrd: Secretary Lewis, I would like to discuss a relatively small matter in terms of dollars, but it is one that concerns me very much. I am referring to the installation of an instrument landing system (ILS) for Kanawha County Airport, which serves the area around Charleston, West Virginia.

The appropriations history for this item is very clear. Funding for the Charleston ILS was included nearly 18 months ago in the fiscal year 1981 Appropriations for the Department of Transportation and Related Agencies. The Administration subsequently proposed to defer funding for this equipment and for improvements at several other airports throughout the country. The Congress considered and rejected the Administration's deferral proposal last summer. The Statement of the Managers accompanying the Appropriation Conference Report includes the following statement:

> "In disapproving the proposed deferral, the conferees direct the Federal Aviation Administration to immediately make available funds for . . . instrument landing systems at Charleston, West Virginia, ..."

So, Congressional intent is very clear with respect to this particular system. I am told, however, that, while the Committee has received no reprogramming request, the Federal Aviation Administration does not plan to install this ILS system.

As Secretary of the Department of Transportation, would you please tell me what the Department's plans are for the installation of ILS systems at Charleston and other airports?

Response: We plan to install the ILS systems mentioned in the conference report, including the one at Charleston as early as possible. Our longer range plan at other airports is to provide the latest state-of-the-art precision landing aid, which will in most future cases be the microwave landing system (MLS). I want to emphasize the word "plan" because, as you have brought out in your question, there are a lot of steps to be taken before any plan can be implemented. In accomplishing this changeover, it is our plan to provide MLS and to defer current ILS projects, except those which have gone too far in the installation phase as to be economically unsound to stop. This will apply to approximately half the installations previously planned.

FAA REPROGRAMMING REQUEST

Senator Byrd: As I noted earlier, it is my understanding that the Federal Aviation Administration has not transmitted a reprogramming request to the Committees on Appropriations. Does the FAA intend to ignore Congressional direction which has been provided twice previously, or do you believe we need to acquaint the FAA with the Committees' reprogramming guidelines and the risks their violation might entail?

Response: You can be assured that no action will be taken which would damage the excellent working relations that the Department enjoys with this Committee.

We understand that the FAA will be proposing for our review a series of funding adjustments necessary to reduce planned programs to the aggregate amount appropriated by Congress, accommodate Congressionally recommended items, and initiate some high-priority projects. We intend to submit a letter to the Committees seeking Congressional concurrence with our proposals, as we have done in previous years, before giving FAA clearance to proceed on any of these reprogramming actions.

QUESTIONS SUBMITTED BY SENATOR CHILES

AVIATION USER TAXES

Senator Chiles: Could you explain the apparent contradiction between your proposal for increased taxes for airport and airway users and the general philosophy of the President that taxes should be reduced?

Response: It is precisely President Reagan's objective to reduce the tax burden on the general taxpayer which has led to our proposal regarding aviation user taxes. It has consistently been the position of this Administration that the general taxpayer should not finance Government services when such services are provided for, and utilized, by specific user groups. Where such user groups can be clearly identified, it is they, the actual beneficiaries of these services, which should finance their continued provision. Our proposal to finance aviation system development and associated administrative costs with user tax revenues is consistent with the President's general tax reduction objective and represents no contradiction in his national tax policy.

FISCAL YEAR 1983 TRUST FUND FINANCING

Senator Chiles: In view of the balance in the Aviation Trust Fund of about $5 billion, could not the first year of the National Airspace System Plan be funded out of existing revenue rather than raise taxes?

Response: The first year of the National Airspace Plan cannot be funded out of the existing revenue without endangering long term solvency of the Trust Fund. The Administration has proposed a program which will both modernize the National Airspace System and insure its financing through a system of taxes on aviation users, the beneficiaries of the modernization effort. Financing the first year of the National Airspace System Plan without raising taxes is not compatible with that proposal.

USE OF TRUST FUND MONIES

Senator Chiles: What assurance would Congress have that new tax revenue to support reconstruction of the Airport and Airways Systems would go for that purpose rather than be used to balance deficits in other Federal programs?

Response: Our latest revenue estimates, on which the Administration's legislative proposal is based, indicate that proposed authorizations from the Trust Fund will exceed annual revenues from user taxes through fiscal year 1986. By structuring our revenue and authorization flows in this fashion, we have committed ourselves to using all current user tax revenues in support of the National Airspace System and to drawing down the Trust Fund's existing uncommitted balance.

See table below of Trust Fund revenue and authorization flows.

AVIATION TRUST FUND BUDGET FORMULATION

(Current Dollars)
$ Millions

	1982	1983	1984	1985	1983-1987 Program/Revenue Totals
BEG. UNCOMMITTED BALANCE	3021.0	1118.8	806.0	123.4	
REVENUE FROM TAXES	279.8	2660.9	3020.0	3426.1	17247
TRUST FUND:AIRPORT PROGRAM	450.0	450.0	450.0	450.0	2250
FACIL & EQUIP	261.0	725.0	1393.0	1407.0	6066
RESEARCH & DEV.	72.0	134.0	286.0	269.0	1097
OPERATIONS	1800.0	2015.0	1917.0	1959.0	9997
TOTAL AUTHORIZATION	2583.0	3324.0	4046.0	4085.0	19410
SUB-TOTAL	717.8	455.6	-219.9	-535.5	
INTEREST	400.9	350.4	343.3	257.8	1341
END UNCOMMITTED BALANCE	1118.8	806.0	123.4	-277.7	297

Tax Assumptions

Ticket = 8% all years
Waybill = 5% all years
Fuel:
  Av. Gas.= 12¢/gal. Tax increases 2¢/gal. per year thru the period beginning in FY-1984
  Av. Jet.= 14¢/gal. Tax increases 2¢/gal. per year thru the period beginning in FY-1984
Int'l Dep.= $3/enplanement all years
Tire&Tube = 5¢ & 10¢/lb. respectively

Other Assumptions

Operations expenses from the Trust Fund in FY-82 = $1.8 billion , FY-83 = 2.015 billion
Operations expenses from the Trust Fund in all other years is consistent with coverage of 85% of FAA's total annual budget

CONSTRAINTS ON AIRSPACE

Senator Chiles: What is your view of the situation in the three geographic areas mentioned relative to prospects for federal regulatory constraints on the use of airspace?

Response: Continued growth of air traffic without attendant improvements/additions to our air traffic control facilities will result in eventual saturation of the airspace. Southern California, the Golden Triangle (New York-Washington-Chicago) and the State of Florida remain the most critical areas. Safe flight in such areas may eventually require regulatory action either in the form of equipment carriage requirements or restrictions to demand.

PROGRAM EXPENDITURE LEVELS

Senator Chiles: If we are to maintain a reasonable balance in our Airport and Airways System, would it not be wise to re-examine the proposed funding for the two major elements--airports and the Air Traffic Control system--in order to avoid over-investment in one capital area at the expense of the other?

Response: The Federal Aviation Administration's (FAA) FY-1983 budget proposals for airport grants, facilities and equipment, and research and development are balanced and consistent with system needs. They reflect information developed by our planning efforts with respect to both the ATC system and airports. The National Airspace System Plan defines improvements that must be made to the current system in the immediate future to insure safety and to meet projected aviation needs and demands. The National Airport System Plan identifies potential improvements to be made at the Nation's airports.

To continue to maintain a reasonable balance, the Federal Aviation Administration (FAA) routinely engages in internal planning review and external consultations with user groups. We have every confidence that our procedures will continue to be effective.

BIDRIGGING

Senator Chiles: Mr. Secretary, based on recent indictments in Illinois, North Carolina, Virginia, Georgia, Florida and other states, bidrigging by contractors on highway and aviation projects appears to be widespread throughout the nation. This reprehensible practice, which apparently has been going on for 20 years or longer at the expense of the taxpayers, must be eliminated.

What is your Department doing to help the states eliminate bidrigging by contractors?

Could you give the Subcommittee some feel for the losses incurred so far by the Federal taxpayers as a result of bidrigging on Federal-aid highway and aviation projects?

What do you think the Congress should do to help your Department and the states eliminate bidrigging?

Response: DOT Office of Inspector General is conducting joint investigations of bidrigging with the Antitrust Division of the Department of Justice. Since then this joint OIG/DOJ effort, which has developed into the highest priority project of the OIG's investigative staff, has accounted for 101 indictments and 71 convictions of corporations and corporate officials, over $6 million in fines, sentences totaling over 22 years, and 51 debarments. The OIG has been involved in bidrigging investigations in 17 states and is currently assisting 8 Federal grand juries. The OIG is developing a computerized bid data analysis system which is expected to enhance the scope of these investigations and accelerate their completion, thus permitting more effective use of limited investigative resources. The system should also provide the basis for a routine bid surveillance system, which can be implemented by the states.

Losses incurred as a result of bidrigging cannot be determined. However, the OIG has begun a study of the impact of bidrigging investigations on bid price patterns. Early indications are that significant savings are being realized by a downward trend in the bid patterns since the bidrigging investigations began receiving public attention. Although these lowered patterns are also influenced by economic factors, comparison of figures by states reflect the impact of the investigations.

I do not have any specific action I would recommend to the Congress at this time. However, your continued support of the Federal Highway Administration's (FHWA's) monitoring of these programs, and the OIG's audit and investigative reviews, would be beneficial. Both the FHWA and the OIG are working very closely with the states to help eliminate bidrigging.

PRIORITY PRIMARY PROGRAM

Senator Chiles: The Administration last year recommended elimination of the Priority Program. I understand that recommendation will be included in the proposed "Federal-Aid Highway Act of 1982" now being developed by your Department. This will affect about 14 states, including

Florida, which have major projects in various stages of planning and construction. U.S. 19 in the Tampa area and S.R. 9A in Jacksonville are two very important projects funded under this program.

Would it make more sense, and provide a more orderly transition for the states, to close the door on the Priority Primary Program, fund those projects now in the program over time, and let the program wind down as projects are completed?

Would you be willing to consider an alternate proposal such as this in order to avoid the heavy opposition which you can expect from this Senator and others in the Senate and House if you again propose to cut this important program off in mid stream?

Response: Yes, we do intend to propose elimination of the Priority Primary Program in our upcoming highway legislation, as proposed in our bill last year.

There is not sufficient national interest in these projects to justify separate funding. All such projects are eligible for regular Primary system funds, and if they are, in fact, high priorities in each state, then we would expect them to be completed expeditiously with regular Primary funds. The estimated total costs of projects funded to date exceeds $2.5 billion, so a phase-out would not be logical. I believe we must eliminate this program. I could not support a phase-out of the Priority Primary Program.

ALLOCATION OF OBLIGATIONAL AUTHORITY

Senator Chiles: Please provide the Committee with tables to display the state by state allocation of obligational authority for fiscal year 1982 and the allocation for fiscal year 1983 based on the spending ceiling proposed by the Department for 1983.

Response: We would be glad to provide the requested information.

(the information follows)

We are unable to provide a State-by-State allocation of obligation authority for FY 1983 because data needed for the formula used to distribute the authority is not available. The formula for allocating obligation authority uses state shares of apportionments of Interstate and non-Interstate authorizations. For FY 1983 obligation authority, apportionments of Interstate funds authorized for FY 1984 and non-Interstate funds authorized for FY 1983 will be used. Currently there are no non-Interstate funds authorized for FY 1983. Interstate construction funds are authorized for FY 1984 but cannot be apportioned until the Congress approves apportionment factors. Interstate 4R funds are also authorized for FY 1984 but cannot be apportioned until updated lane miles and vehicle miles traveled data required to be used in the apportionment formula become available. The information for 1982 follows.

U. S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration

Distribution of Obligation Authority for FY 1982

Distribution Based on FY 1983 Interstate and
FY 1982 Non-Interstate Formula Apportionments/Allocations

MFS-30
3/24/82

(thousands of dollars)

State	FY 1982 Actual
Alabama	$159,729
Alaska	106,938
Arizona	105,646
Arkansas	76,753
California	679,845
Colorado	118,321
Connecticut	139,739
Delaware	35,943
Florida	317,872
Georgia	256,342
Hawaii	82,813
Idaho	53,031
Illinois	261,285
Indiana	111,521
Iowa	96,506
Kansas	100,613
Kentucky	175,178
Louisiana	254,496
Maine	44,032
Maryland	274,151
Massachusetts	173,802
Michigan	192,098
Minnesota	161,266
Mississippi	72,346
Missouri	133,991
Montana	65,427
Nebraska	69,510
Nevada	48,002
New Hampshire	41,681
New Jersey	183,528
New Mexico	63,401
New York	404,013
North Carolina	151,077
North Dakota	54,079
Ohio	218,475
Oklahoma	91,580
Oregon	94,964
Pennsylvania	347,547
Rhode Island	81,753
South Carolina	108,625
South Dakota	53,570
Tennessee	143,760
Texas	446,918
Utah	81,639
Vermont	42,257
Virginia	212,565
Washington	223,276
West Virginia	115,334
Wisconsin	112,061
Wyoming	51,470
Dist. of Col.	53,002
Puerto Rico	29,966
Total	7,773,737
Administration	193,600
Forest Highway	32,663
Total	8,000,000

ALLOCATION OF SPENDING AUTHORITY

Senate Chiles: For F.Y. 1982, please provide the Committee with a table to show a state by state allocation of the spending authority if it were computed on the basis of both apportioned and discretionary funds received by the State.

Response: We would be glad to furnish the requestED information.

(the information follows)

U. S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration

Distribution of FY 1982 Obligation Limitation
Actual vs Estimated Assuming Inclusion of Discretionary Funds 1/

(thousands of dollars)

3/23/82

State	Actual Based on Formula Funds Only	Estimated with Discretionary Funds Included	Inclusion of Discretionary Funds Provides—	
			More	Less
Alabama	159,729	149,454		10,275
Alaska	106,938	99,652		7,286
Arizona	105,646	108,817	3,171	
Arkansas	76,753	80,979	4,226	
California	679,845	674,810		5,035
Colorado	118,321	124,069	5,748	
Connecticut	139,739	130,217		9,522
Delaware	35,943	43,535	7,592	
Florida	317,872	312,615		5,257
Georgia	256,342	295,826	39,484	
Hawaii	82,813	77,170		5,643
Idaho	53,031	61,551	8,520	
Illinois	261,285	257,868		3,417
Indiana	111,521	103,922		7,599
Iowa	96,506	102,605	6,099	
Kansas	100,613	98,828		1,785
Kentucky	175,178	164,296		10,882
Louisiana	254,496	244,287		10,209
Maine	44,032	41,270		2,762
Maryland	274,151	264,694		9,457
Massachusetts	173,802	161,959		11,843
Michigan	192,098	187,881		4,217
Minnesota	161,266	155,607		5,659
Mississippi	72,346	67,416		4,930
Missouri	133,991	143,416	9,425	
Montana	65,427	69,948	4,521	
Nebraska	69,510	65,311		4,199
Nevada	48,002	62,367	14,365	
New Hampshire	41,681	47,712	6,031	
New Jersey	183,528	171,022		12,506
New Mexico	63,401	68,904	5,503	
New York	404,013	418,419	14,406	
North Carolina	151,077	151,271	194	
North Dakota	54,079	64,610	10,531	
Ohio	218,475	203,588		14,887
Oklahoma	91,580	94,246	2,666	
Oregon	94,964	90,757		4,207
Pennsylvania	347,547	324,008		23,539
Rhode Island	81,753	76,562		5,191
South Carolina	108,625	106,016		2,609
South Dakota	53,570	51,513		2,057
Tennessee	143,760	165,117	21,357	
Texas	446,918	478,648	31,730	
Utah	81,639	92,817	11,178	
Vermont	42,257	39,861		2,396
Virginia	212,565	199,203		13,362
Washington	223,276	229,076	5,800	
West Virginia	115,334	115,082		252
Wisconsin	112,061	109,520		2,541
Wyoming	51,470	50,326		1,144
Dist. of Col.	53,002	49,391		3,611
Puerto Rico	29,966	27,924		2,042
Total	7,773,737	7,775,963	2,226	
Administration	193,600	193,600		
Forest Highway	32,663	30,437		2,226
Total	8,000,000	8,000,000		

1/ Interstate, Priority Primary, Bridge, and Public Lands.

QUESTIONS SUBMITTED BY SENATOR NUNN

INCREASES IN HIGHWAY USER FEES

Senator Nunn: You were quoted as saying at a recent meeting of the American Road and Transportation Builders Association that the White House had authorized you to keep the dialogue open on the issue of increased gasoline taxes to support highways and transit although the President has not yet approved such an increase. The assumption appears to be that these user fees would be placed in a Trust Fund. That gives the taxpayers and members of Congress no assurance that dedicated trust fund money would be expended for the purposes for which it was collected. Instead it could be used to balance deficits in other programs. What are your thoughts on the need for an increase in user fees to support highways and transit?

Response: As you know, I have been a strong supporter of increased highway user taxes to support highway and transit capital investments. Let me assure you that under our proposal increased program levels for Federal capital assistance for highway and transit would accompany increased user charges.

Senator Nunn: Could you assure this Committee that in the event Congress decides to increase user fees for motorists, those fees will be used to improve our highways, and possibly public transit, and not for other purposes?

Response: Of course the ultimate design of any such user charge increase and the associated authorization increases in transportation programs would depend on final Congressional action. Let me assure you, though, that I would support the dedication of any such user charge increases to capital investments in highways and mass transit and would oppose diversion to other programs or purposes.

DISCRETIONARY FUNDS VS. OBLIGATION LIMITATION

Senator Nunn: Would the Secretary explain why there appears to be resistance within the U.S. DOT to providing obligation authority to go with each allocation of discretionary funds? If the discretionary programs--especially those for Interstate Construction, Priority Primary and Bridges--are to be effective would it not be a good idea to either provide obligation authority with each allocation of discretionary funds or exempt these programs from the overall obligation limitation? Which approach would you prefer?

Response: Let me address your question in two parts:

1. If we were to provide obligation authority to go with each allocation of discretionary funds while still maintaining a total obligation limitation, only about 20 States would benefit, while the remaining 32 States would be forced to absorb this additional allocation. Since we must view the fairness of all limitations on a National equity basis, we feel that allocating obligation limitation with each allocation of discretionary funds would create inequities in the administration of the obligation limitation among the States as a whole.

2. If we were to exempt these discretionary programs from the limitation entirely, it would tend to defeat the purpose of the obligation limitation, which is to control outlays in the short run.

Therefore, in answering your question, I would prefer neither approach. I would recommend that we continue to administer the obligation limitation as we are now doing. If however, the economic situation should change that would permit a program level commensurate with the highway needs, perhaps some adjustment in how we administer the obligation limitation could be accommodated.

PORTS AND WATERWAYS

Senator Nunn: It is my understanding that you have proposed that user fees be imposed on our ports and waterways in sufficient amount to cover the full Federal cost of construction and maintenance of our ports and waterways and for providing related services. This is a radical departure from past practices. The port industry is justifiably concerned about what effect this change may have on the development of ports and waterways, and the healthy competitive environment in which they now operate. What specifically is the Administration proposing in the way of user fees for our ports and waterways? How much revenue would be generated relative to what it costs the Federal Government now to construct port and waterway facilities and maintain them?

Response: The Administration is proposing to recover from commercial users 100 percent of the Federal costs of building and maintaining the U.S. commercial waterway and port system that are attributable to such uses. The President's Budget for FY 1983 contemplates total outlays for Corps of Engineers navigation projects of $935 million. The Operations and Maintenance portion of this figure is $150 million less than the amount required to perform a moderate level of maintenance on all waterways and harbors. However, the appropriation request will be increased if adequate reimbursement is provided upon enactment of user fees. Offsetting receipts from user charges or reimbursement from project sponsors is estimated at $448 million.

Senator Nunn: Have there been any studies done by the Administration to identify the likely short- and long-term effects on the port and waterway system of our country from this proposed change? If so, what are the results?

Response: Pursuant to P.L. 95-502, Section 205, the Departments of Commerce and Transportation undertook a study of the impacts of various types and recovery levels of inland waterway user charges. These impacts are detailed in the report of the study which was sent to the Congress on February 10, 1982. In general, that study showed that while there would be noticeable short-run impacts from inland waterway user charges, notably on farmers and barge operators, these effects would be relatively short lived as strong growth in traffic takes place in future years.

Senator Nunn: What consideration has been given in this proposal to its effect on national security, recognizing that many of our ports and waterways will be needed in a national emergency to outload military personnel, equipment and supplies, and to support our allies overseas? Is there not a strong Federal Government interest in maintaining these ports and waterways which can be expected to serve a defense purpose in time of national emergency? What is the position of the Secretary of Defense in this matter?

Response: While very little military traffic moves on the inland waterway system, public use of the system was recognized in the proposed allocation of costs. In the case of the deep draft system, the proportionate costs attributable to public uses of the channels, e.g., Navy ships, have ben excluded from the amounts to be recovered by user charges from commercial users.

A significant national security component exists in all our major transportation modes; yet, it has not routinely played a role in financing their construction or maintenance. The National Defense Highway System is a perfect case in point. There is a strong Federal interest in maintaining the ports and waterways which can be expected to serve a defense purpose in times of national emergency. This interest can best be protected by ensuring that there is an assured source of funding for this needed maintenance work. As in the case of the National Defense Highway System, dedicated funds financed by user charges will assure the stable funding source.

The Administration's waterway user charge proposals have been fully concurred in by the Secretary of Defense and the lead agency for them is, of course, the Department of the Army.

RELATIONSHIP OF STRATEGIC TRANSPORTATION SYSTEMS TO NATIONAL DEFENSE

Senator Nunn: The National System of Interstate and Defense Highways was conceived and built primarily for defense purposes. There is, in fact, a Strategic Highway Network designated by the U.S. Department of Defense (Military Traffic Management Command) which encompasses both the Interstate and other highway systems.

The ports and waterways of this country, as indicated in a previous question, will serve a defense purpose in time of national emergency.

Large segments of our rail system are on the Strategic Railroad Network designated by the U. S. Department of Defense (MTMC).

In time of national emergency most of our commercial aircraft and their crews will be taken for defense purposes as a part of the Civil Reserve Air Fleet (CRAF), and many of our airports will revert to military use.

These facts suggest that the Administration is going at cross purposes in attempting to strengthen our defense posture. At the same time that billions, perhaps trillions, are being proposed for a military buildup, we are proposing to undermine and degrade, through funding reductions and neglect, those systems and facilities which are absolutely essential for the movement of military personnel, equipment and supplies within this country and to support our military forces and allies overseas.

Would you explain how the Administration rationalizes such a contradictory policy?

Do you really believe that this country will be stronger after the proposed buildup of the military establishment if we let our strategic transportation systems continue to decline?

Have you considered the fact that a relatively few deficient bridges on our Interstate System will cause major problems in almost every area of the country in the movement of military personnel, equipment and supplies to outloading ports in time of national emergency?

Would you be willing to join with the Congress in a joint effort to correct this deplorable situation?

Response: The Administration is fully aware of and sensitive to the national security importance of our major transportation systems. It wants to ensure that there exist adequate and stable sources of financing that will permit, indeed ensure, the maintenance and effective functioning of those systems. To this end it has put forth new program proposals that would institute or raise user charges.

The Administration, however, also wants to confront and solve the present budgetary problem, and this, quite simply, means that we cannot do everything that we might want to do, at least at this time. That means setting hard priorities.

However, we are well aware that deficient bridges on the Interstate System, as well as portions of pavement that need rehabilitating, could cause major problems in almost every area of the country in the movement of military personnel. Consequently, building and repair of the Interstate and rehabilitation of bridges are high priorities in the highway program and will continue to remain so, even under constrained budget conditions. Still, existing financing sources do fall short of our documented needs and a user charge increase certainly would halt accelerating deterioration of the Interstate System and its bridges.

We are, of course, willing to join and work with the Congress in efforts to provide the necessary programs and financing to address highway needs. The user charge policy and the extent of our efforts to carry out this policy in the transportation sector deserve careful attention and discussion.

SUBCOMMITTEE RECESS

Senator ANDREWS. If there is no other business, the committee stands adjourned. Thank you very much for coming.

[Whereupon, at 11:30 a.m., Tuesday, March 9, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, March 11.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

THURSDAY, MARCH 11, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:15 a.m. in room 1224, Everett McKinley Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

PANAMA CANAL COMMISSION

STATEMENT OF WILLIAM R. GIANELLI, ASSISTANT SECRETARY OF THE ARMY, CIVIL WORKS

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order. We would like to hear from the Panama Canal Commission first, if their witnesses would move to the table.

Your statements will be included in the record as if read in total. If you would like, please highlight them very briefly and we can get to the oral questions so we can make a complete record.

If you will proceed.

Mr. GIANELLI. Thank you very much, Mr. Chairman. I am William Gianelli, the Assistant Secretary of the Army for Civil Works and I am chairman of the Panama Canal Commission. In accordance with your suggestion, Senator, what I would like to do is to submit the entire statement for the record, make a couple of very brief comments, and then turn it over to Mr. McAuliffe. At the table with me today is Mr. Dennis P. McAuliffe, who is the administrator of the Commission, and whom I am sure you know.

Before he testifies, however, I wanted to affirm that the administration has approved the budget submission of the Commission and that it is in accord with the program of the President. We believe that enactment of this budget request will allow the canal to continue to be operated efficiently, and that it will effectively serve world commerce.

The administration shares the mutual concern and interest with certainly the members of this subcommittee that the Panama Canal continue to provide continuous safe and efficient service to world shipping and, at the same time, meet our treaty commitments to

Panama. The plans and programs submitted to you for fiscal year 1983 are in consonance with that concern and interest and, as I stated earlier, are in accord with the President's objective to maintain U.S. control over the continued operation of the waterway throughout the period of the treaty. We aim to continue effective management of the canal operation, investing in judicious improvement programs, meeting our commitments, and extending the useful life of the Panama Canal.

I would like to close, Mr. Chairman, and reiterate my appreciation to you and this subcommittee for the opportunity of appearing before you today. I thank you for the excellent support we have had from you and your subcommittee in the past. If it meets with your approval, I recommend that Mr. McAuliffe present his testimony and then both of us will be available for any questions that you might have.

Senator ANDREWS. I appreciate that. Mr. McAuliffe, I assure you that your complete testimony will appear in full in the record.

[The statement follows:]

STATEMENT OF WILLIAM R. GIANELLI

Mr. Chairman, members of the Transportation Subcommittee, Committee on Appropriations, I am William R. Gianelli, Assistant Secretary of the Army, Civil Works and Chairman of the Board of the Panama Canal Commission. It is a pleasure for me to appear before you today as you receive testimony concerning the administration's request for fiscal year 1983 operating and capital appropriations for the Panama Canal Commission.

At the table with me today is Mr. Dennis P. McAuliffe, the Administrator of the Commission whom all of you know. Before he testifies, however, I wanted to affirm that the administration has approved the budget submission of the Commission and that it is in accord with the program of the President. We believe that enactment of this budget request will allow the canal to continue to be operated efficiently and that it will effectively serve world commerce.

FIRST 2 YEARS OF OPERATION

The canal has experienced a record transit of tonnage and record tolls revenue collected in both fiscal years under the management of the Panama Canal Commission. The Commission has recovered, through tolls and other revenues, all costs of operating and maintaining the canal, including interest, depreciation, capital for plant replacement, expansion and improvements, and the payments to the Republic of Panama for public services furnished the Commission and for the annuities required under the new treaty. The Commission, therefore, has operated at no cost to the U.S. taxpayer. This is in accord with the congressional intent embodied in the treaty implementing legislation, Public Law 96-70.

As this committee is aware, the Commission has undertaken a number of capital investment projects to improve the waterway and to increase its capacity. These projects are needed to keep up with the ever-increasing number of large ships transiting the canal.

TOLL RATE INCREASE

This administration is continuing the tradition of striving—through prudent management practicies and cost-effective actions—to minimize the cost of operating and, thereby, of using the canal. Nevertheless, a toll rate increase is forecast for fiscal 1983, due in large measure to the new trans-Panama oil pipeline scheduled to be in operation during that year. The waterway could lose as much as $45 million in annual revenues because of the anticipated reduction in the number of transits of vessels carrying Alaskan North Slope oil. This loss, which is directly attributable to the pipeline, is not expected to be made up by increases in other traffic over the next several years. The toll rate increase is necessary to comply with the requirement of law that tolls be established to cover all costs of maintaining and operating the Panama

Canal. Without this increase, the Commission will incur a substantial deficit in fiscal year 1983 which would have a compounding effect on future budget periods. Although the budget before you anticipates an approximate 13-percent increase, we will be finalizing the exact requirement in the next several weeks and expect to conclude that a lesser increase will be required. I can assure you that the increase will be well reviewed and implemented only in the amount absolutely essential to insure the continued self-sufficiency of the canal operation. I must note that this is the first rate increase since inception of the new organization on October 1, 1979.

The administration shares the mutual concern and interest with you that the Panama Canal continue to provide continuous safe and efficient service to world shipping, and at the same time, meet our treaty commitments to Panama. The plans and programs submitted to you for fiscal year 1983 are in consonance with that concern and interest. And, as I stated earlier, are in accord with the President's objective to maintain U.S. control over the continued operation of the waterway throughout the period of the treaty. We aim to continue effective management of the canal operation investing in judicious improvement programs, meeting our commitments and extending the useful life of the Panama Canal.

CONCLUSION

Mr. Chairman, in closing, I would like to reiterate my appreciation to you and this committee for the opportunity to appear before you today and to thank you for your excellent support in the past. If it meets with your approval, I recommend that Mr. McAuliffe present his testimony and then both of us will be available for any questions the committee might have.

STATEMENT OF DENNIS P. McAULIFFE, ADMINISTRATOR

Mr. McAULIFFE. Thank you very much, Mr. Chairman. I am Dennis P. McAuliffe, the Administrator of the Panama Canal Commission. I am very pleased to appear before you today to request appropriation for the fiscal year 1983 budget programs of the Panama Canal Commission, the agency responsible for the operation of the Panama Canal.

Attending with me from the Commission are Walter Bjorseth, the Chief Financial Officer on my right, Michael Rhode, the Secretary, Myron Schroeder, Chief, Financial Planning Division, and Robert Boatwright, Chief, Budget Branch.

I do propose to enter my full statement into the record and summarize it at this time.

SECOND YEAR OF OPERATION

Our second year of operation under the Panama Canal Treaty and the Panama Canal Act of 1979, like the first year, has been a successful one. We experienced another record year in both tonnage transited and tolls revenue collected. The number of oceangoing commercial transits increased by an average 30 ships per month.

Importantly, the trend toward larger vessels has continued. Vessels having beams of 80 feet or greater accounted for over 45 percent of total oceangoing transits. And those of Panama size of 100 feet or more in beam comprised over 16 percent.

A most significant statistic is the near break-even operation in fiscal year 1981. This is a noteworthy accomplishment considering our original budgeted loss of $6.9 million was compounded by a number of significant unbudgeted financial requirements.

Despite the fact that we were able to absorb a large portion of these costs through reprograming of resources, we also enacted an austerity program in early 1981 to further reduce that projected deficit. Our final 1981 operating results reflect a minimal net operating loss of $600,000.

A total of $79.6 million in treaty-related payments were made to the Republic of Panama in fiscal year 1981. The total treaty-related payments to Panama were offset by $4.3 million for amounts overdue the Commission from the Government of Panama.

We have been able safely and efficiently to accommodate the steady increase in canal traffic in part due to our sustained efforts on canal maintenance and improvement projects. Our capital program was accelerated with the fiscal year 1981 investment increasing by more than 35 percent over that of the previous year.

The expeditious congressional approval of our supplemental appropriation request was instrumental in the success of this capital reprograming. The additional investment was urgently needed at the time for capacity improvement projects because the capacity of the canal had been exceeded by the mounting ship traffic.

Our primary emphasis has been placed on projects which will increase canal capacity. The projects now underway or planned will increase canal capacity from 37 to 40 vessels per day—that is our present capacity—to 42 to 44 vessels per day; a capability that is required even now to meet the needs of the shipping industry.

Major maintenance projects currently in progress, like the capital programs, are designed to maintain and improve our capability to safely and efficiently transit ships through the canal. The necessity for modernizing the canal and maximizing its safe, efficient, and cost-competitive operation is becoming more and more critical as alternatives to the Panama Canal are developed.

ALTERNATIVES TO CANAL

Current and projected alternatives to the canal include the U.S. landbridge and rail system, the Trans-Panama pipeline, and the Mexican landbridge. The continued deregulation of the railroads, any expansion of the rail service and continued competitive cost will serve to attract more and more traffic from the Panama Canal to the landbridge and rail system. While we do not anticipate a decline in existing traffic, this alternative will absorb an increasing share of container and bulk shipment growth.

The Trans-Panama pipeline will have a significant impact on the canal in the foreseeable future. This pipeline is expected to divert the majority of Alaskan North Slope oil shipments currently passing through the Panama Canal. The revenue loss to the Panama Canal resulting from the pipeline could exceed $45 million annually. We are watching the progress of the pipeline construction very carefully and expect to know more definitely of its impact on canal operations in the very near future.

The Mexican landbridge is not expected to have a significant impact on the Panama Canal.

APPROPRIATION FOR 1983

I would like to turn now to our appropriation request. This request covers an appropriation requirement for the Panama Canal Commission in fiscal year 1983 totaling $452.6 million. This includes $423.6 million for operational requirements during the year and $29 million for capital equipment and construction to remain available until expended.

All funds authorized for appropriation to the Commission are to come from the Panama Canal Commission fund. The appropriation required for operating expenses in fiscal year 1983 is $423.6 million. The major cost components of this total include $207.9 million for personnel compensation, $75.4 million for treaty payments to Panama, and $68.6 million for supplies and materials.

CAPITAL PROGRAM

The Commission's capital program reflects $29 million in budget authority for 1983 and is dedicated primarily to improved traffic capacity and safety as well as operational efficiency. Accordingly $21.8 million of that amount will be applied to the transit operations function. This proposed capital program reflects our continued emphasis on insuring that the canal remains operationally viable now and for the future.

The Panama Canal Act of 1979 provides that no funds may be appropriated to or for the use of the Commission for any fiscal year in excess of the revenue estimated for deposit in the Panama Canal Commission fund during the year, plus prior deposits to the fund remaining unexpended at the beginning of such year.

The 1983 request is in compliance with such provisions of this act. Total deposits for fiscal year 1983 in the Panama Canal Commission fund are projected to be $407.9 million. This coupled with the unexpended balance of the fund from fiscal year 1982 will exceed the requested appropriation.

CONCLUSION

In conclusion, the Panama Canal Commission is committed to providing reliable, efficient service to world shipping. The operating and capital programs proposed for fiscal year 1983 will enable us to accomplish this and insure the canal's viability for the future. Detailed descriptions of the operating and capital programs for the Commission for fiscal year 1983 are included in the justification booklet previously furnished to your committee. Mr. Chairman, that concludes my prepared remarks. We are prepared to respond to questions.

[The statement follows:]

STATEMENT OF DENNIS P. MCAULIFFE

MR. CHAIRMAN, MEMBERS OF THE TRANSPORTATION SUBCOMMITTEE ON APPROPRIATIONS, I AM DENNIS P. MCAULIFFE, ADMINISTRATOR OF THE PANAMA CANAL COMMISSION. I AM PLEASED TO APPEAR BEFORE YOU TODAY TO REQUEST APPROPRIATION FOR THE FISCAL YEAR 1983 BUDGET PROGRAMS OF THE PANAMA CANAL COMMISSION, THE AGENCY RESPONSIBLE FOR THE OPERATION OF THE PANAMA CANAL. ATTENDING WITH ME ARE WALTER D. BJORSETH, CHIEF FINANCIAL OFFICER; MICHAEL RHODE, JR., SECRETARY; MYRON A. SCHROEDER, CHIEF, FINANCIAL PLANNING DIVISION; AND ROBERT J. BOATWRIGHT, CHIEF, BUDGET BRANCH. I PROPOSE TO ENTER MY FULL STATEMENT INTO THE RECORD AND TO SUMMARIZE IT AT THIS TIME.

OVERVIEW OF FISCAL YEAR 1981

OUR SECOND YEAR OF OPERATION UNDER THE PANAMA CANAL TREATY AND THE PANAMA CANAL ACT OF 1979, LIKE THE FIRST YEAR, HAS BEEN A SUCCESSFUL ONE. WE EXPERIENCED ANOTHER RECORD YEAR IN BOTH TONNAGE TRANSITED AND TOLLS REVENUE COLLECTED. PC NET TONNAGE AND CARGO TONNAGE (LONG TONS) BOTH INCREASED BETWEEN 1980 AND 1981. PC NET TONS INCREASED BY 3.5 PERCENT--FROM 183.2 MILLION TONS IN 1980 TO 189.6 MILLION TONS IN 1981. CARGO TONNAGE INCREASED BY 2.3 PERCENT--FROM 167.6 MILLION LONG TONS IN 1980 TO 171.5 MILLION TONS IN 1981. TOLLS REVENUE, LIKEWISE, INCREASED FROM $293 MILLION IN 1980 TO $303 MILLION IN 1981--A 3.4 PERCENT INCREASE.

THE NUMBER OF OCEANGOING COMMERCIAL TRANSITS INCREASED BY AN AVERAGE 30 SHIPS PER MONTH--FROM 13,614 TOTAL IN 1980 TO 13,984 IN 1981. IMPORTANTLY, THE TREND TOWARD LARGER VESSELS HAS CONTINUED. IN 1981 THE AVERAGE SIZE OF THESE VESSELS WAS THE LARGEST IN THE HISTORY OF THE CANAL. VESSELS HAVING BEAMS OF 80 FEET OR GREATER ACCOUNTED FOR OVER 45 PERCENT OF TOTAL OCEANGOING TRANSITS, AND THOSE OF "PANAMAX" SIZE, 100 FEET OR MORE IN BEAM, COMPRISED OVER 16 PERCENT.

A MOST SIGNIFICANT STATISTIC IS THE NEAR BREAK-EVEN OPERATION IN FISCAL YEAR 1981. THIS IS A NOTEWORTHY ACCOMPLISHMENT CONSIDERING OUR ORIGINAL BUDGETED LOSS OF $6.9 MILLION WAS COMPOUNDED BY A NUMBER OF SIGNIFICANT

UNBUDGETED FINANCIAL REQUIREMENTS. DESPITE THE FACT THAT WE WERE ABLE TO ABSORB A LARGE PORTION OF THESE COSTS THROUGH REPROGRAMMING OF RESOURCES, WE ALSO ENACTED AN AUSTERITY PROGRAM IN EARLY 1981 TO FURTHER REDUCE THAT PROJECTED DEFICIT. THE AUSTERITY MEASURES INCLUDED RESTRICTING NEW EMPLOYMENTS TO ONLY THOSE ESSENTIAL FOR THE OPERATION AND MAINTENANCE OF THE WATERWAY ITSELF AND RIGID CONTROL OVER THE USE OF OVERTIME, RESTRICTING IT TO ESSENTIAL OPERATIONS AND OTHER HIGH PRIORITY PROJECTS.

OUR FINAL 1981 OPERATING RESULTS REFLECT A MINIMAL NET OPERATING LOSS OF $0.6 MILLION. THIS RESULTED FROM TOTAL ACCRUED COSTS OF $467.0 MILLION OFFSET BY RECOVERIES OF $466.4 MILLION.

A TOTAL OF $79.6 MILLION IN TREATY-RELATED PAYMENTS WERE MADE TO THE REPUBLIC OF PANAMA IN FISCAL YEAR 1981. THESE INCLUDED A FIXED ANNUITY PAYMENT OF $10 MILLION, A PUBLIC SERVICES PAYMENT OF $10 MILLION, A NET TONNAGE PAYMENT OF $56.9 MILLION, AND A CONTINGENCY PAYMENT OF $2.7 MILLION. THE $2.7 MILLION CONTINGENCY PAYMENT REPRESENTS THE EXCESS OF OPERATING REVENUES OVER EXPENSES DURING FISCAL YEAR 1980 AND IS REQUIRED BY PARAGRAPH 4(C) OF ARTICLE XIII OF THE TREATY. A SUPPLEMENTAL APPROPRIATION WAS RECEIVED DURING 1981 TO MAKE THIS CONTINGENCY PAYMENT.

THE TOTAL TREATY-RELATED PAYMENTS TO PANAMA WERE OFFSET BY $4.3 MILLION FOR AMOUNTS OVERDUE THE COMMISSION FROM THE GOVERNMENT OF PANAMA. OF THIS OFFSET, $3.9 MILLION WERE FOR ACCOUNTS RECEIVABLES ACCUMULATED PRIOR TO JUNE 1979 AND THE REMAINING $0.4 MILLION WERE FOR CURRENT RECEIVABLES OVERDUE MORE THAN 30 DAYS.

IN 1981 ARRANGEMENTS WERE NEGOTIATED WITH THE DEPARTMENT OF THE ARMY'S MILITARY TRAFFIC MANAGEMENT COMMAND (MTMC) TO TRANSPORT COMMISSION CARGO ON COMMERCIAL VESSELS CONTRACTED BY THE MILITARY SEALIFT COMMAND (MSC), DEPARTMENT OF THE NAVY. THIS ENABLED US TO RETIRE THE COMMISSION-OWNED FREIGHT VESSEL, SS CRISTOBAL, IN SEPTEMBER 1981, AFTER ALMOST 40 YEARS IN SERVICE. RETIREMENT OF THIS VESSEL WAS NECESSITATED BY THE INCREASING OPERATING COST COUPLED WITH THE DECLINE IN VOLUME OF TONNAGE BEING

TRANSPORTED. WE ARE CURRENTLY RECEIVING SATISFACTORY CARGO SERVICE ON ARMY-CONTRACTED LYKES LINE VESSELS SAILING FROM NEW ORLEANS.

PROGRESS ON CANAL MAINTENANCE AND IMPROVEMENT PROJECTS

WE HAVE BEEN ABLE, SAFELY AND EFFICIENTLY, TO ACCOMMODATE THE STEADY INCREASE IN CANAL TRAFFIC, IN PART, DUE TO OUR SUSTAINED EFFORTS ON CANAL MAINTENANCE AND IMPROVEMENT PROJECTS.

OUR CAPITAL PROGRAM WAS ACCELERTATED WITH THE FISCAL YEAR 1981 INVESTMENT INCREASING BY MORE THAN 35 PERCENT OVER THAT OF THE PREVIOUS YEAR. THIS WAS ACCOMPLISHED BY RESCHEDULING $10.2 MILLION IN CAPITAL PROGRAMS FROM 1982 TO 1981. THE EXPEDITIOUS CONGRESSIONAL APPROVAL OF OUR SUPPLEMENTAL APPROPRIATION REQUEST WAS INSTRUMENTAL IN THE SUCCESS OF THIS CAPITAL REPROGRAMMING. THE ADDITIONAL INVESTMENT WAS URGENTLY NEEDED AT THE TIME FOR CAPACITY IMPROVEMENT PROJECTS BECAUSE THE CAPACITY OF THE CANAL HAD BEEN EXCEEDED BY THE MOUNTING SHIP TRAFFIC.

OUR PRIMARY EMPHASIS HAS BEEN PLACED ON PROJECTS WHICH WILL INCREASE CANAL CAPACITY. THE PROJECTS NOW UNDERWAY OR PLANNED WILL INCREASE CANAL CAPACITY FROM 37 TO 40 VESSELS PER DAY TO 42 TO 44 PER DAY, A CAPABILITY THAT IS REQUIRED EVEN NOW TO MEET THE NEEDS OF THE SHIPPING INDUSTRY. THESE PROJECTS INCLUDE EXPANSION AND MODERNIZATION OF THE LOCKS TOWING LOCOMOTIVE AND TUGBOAT FLEETS; INSTALLATION OF SPECIAL HIGH MAST, HIGH INTENSITY LIGHTING AT THE LOCK CHAMBERS; CHANNEL DEEPENING AND WIDENING PROJECTS; AND CONSTRUCTION OF A VESSEL TIE-UP OR MOORING STATION NEAR PEDRO MIGUEL LOCKS.

MAJOR MAINTENANCE PROJECTS CURRENTLY IN PROGRESS INCLUDE A MAJOR REHABILITATION OF THE LOCOMOTIVE TOW TRACK SYSTEM AT THE LOCKS, THE MULTI-YEAR LOCKS OVERHAUL PROGRAM, MIRAFLORES DAM SPILLWAY REPAIR AND STABILIZATION, AND MAINTENANCE DREDGING TO KEEP THE CHANNEL CLEAR. THESE PROJECTS, LIKE THE CAPITAL PROGRAMS, ARE DESIGNED TO MAINTAIN AND IMPROVE OUR CAPABILITY TO SAFELY AND EFFICIENTLY TRANSIT SHIPS THROUGH THE CANAL.

ALTERNATIVES TO THE PANAMA CANAL

THE NECESSITY FOR MODERNIZING THE CANAL AND MAXIMIZING ITS SAFE, EFFICIENT, AND COST-COMPETITIVE OPERATION IS BECOMING MORE AND MORE CRITICAL AS ALTERNATIVES TO THE PANAMA CANAL ARE DEVELOPED. CURRENT AND PROJECTED ALTERNATIVES TO THE CANAL INCLUDE THE U.S. LANDBRIDGE AND RAIL SYSTEM, THE TRANS-PANAMA PIPELINE, AND THE MEXICAN LANDBRIDGE.

THERE HAS BEEN AN EVER INCREASING TREND SINCE 1970 FOR DIVERSION OF GULF PORT SHIPMENTS TO PACIFIC COAST PORTS. CONTAINER, AS WELL AS BULK SHIPMENTS, ARE BEING TRANSPORTED BY RAIL TO THE WEST COAST AND TRANSPORTED TO THE FAR EAST, THUS BYPASSING THE PANAMA CANAL. THE CONTINUED DEREGULATION OF THE RAILROADS, ANY EXPANSION OF THE RAIL SERVICE AND CONTINUED COMPETITIVE COST WILL SERVE TO ATTRACT MORE AND MORE TRAFFIC FROM THE PANAMA CANAL TO THIS ALTERNATIVE ROUTE. WHILE WE DO NOT ANTICIPATE A DECLINE IN EXISTING TRAFFIC, THIS ALTERNATIVE WILL ABSORB AN INCREASING SHARE OF CONTAINER AND BULK SHIPMENT GROWTH.

THE TRANS-PANAMA PIPELINE WILL HAVE A SIGNIFICANT IMPACT ON THE CANAL IN THE FORESEEABLE FUTURE. THIS PIPELINE IS EXPECTED TO DIVERT THE MAJORITY OF ALASKAN NORTH SLOPE (ANS) OIL SHIPMENTS CURRENTLY PASSING THROUGH THE PANAMA CANAL. RECENT INFORMATION INDICATES THAT THE PIPELINE MAY BECOME OPERATIONAL BY NOVEMBER OF THIS YEAR, SEVERAL MONTHS EARLIER THAN PREVIOUSLY ESTIMATED. IF THIS WERE TO OCCUR, THE COMMISSION COULD LOSE ADDITIONAL INCOME. HOWEVER, THIS SAME INFORMATION INDICATES THAT ANS SHIPMENTS MAY EXCEED THE THROUGHPUT CAPACITY OF THE PIPELINE, RESULTING IN SOME MARGINAL MOVEMENT THROUGH THE CANAL IN 1983 AND BEYOND. THE REVENUE LOSS TO THE PANAMA CANAL RESULTING FROM THE PIPELINE COULD EXCEED $45 MILLION ANNUALLY. WE ARE WATCHING THE PROGRESS OF THE PIPELINE CONSTRUCTION VERY CAREFULLY AND EXPECT TO KNOW MORE DEFINITELY OF ITS IMPACT ON CANAL OPERATIONS IN THE VERY NEAR FUTURE.

A MEXICAN LANDBRIDGE WHICH WAS SCHEDULED TO BE OPERATIONAL IN EARLY 1982 IS NOT EXPECTED TO HAVE A SIGNIFICANT IMPACT ON CANAL TRAFFIC. IT WILL HAVE A LIMITED CAPACITY. WE ARE NOT AWARE OF ANY OF OUR MAJOR CUSTOMERS WHO PLAN TO USE THIS ROUTE.

END OF TRANSITION PERIOD--PHASEOUT OF POLICE AND COURTS

ARTICLE XI OF THE TREATY PROVIDED FOR CONTINUED FUNCTION OF A U.S. POLICE AND COURT SYSTEM IN THE FORMER CANAL ZONE FOR A TRANSITION PERIOD OF 30 MONTHS. THAT TRANSITION PERIOD EXPIRES MARCH 31, 1982. CONSEQUENTLY, THE COMMISSION POLICE FORCE AND U.S. COURT SYSTEM CEASE TO EXIST APRIL 1, 1982. THE BALBOA POLICE STATION COMPLEX, INCLUDING THE MAGISTRATES COURT, IS TO BE TURNED OVER TO PANAMA ON APRIL 1, PURSUANT TO TREATY AGREEMENT.

PLANS TO HANDLE THE PERSONNEL REDUCTIONS ASSOCIATED WITH THE PHASEOUT OF THE POLICE AND COURT ACTIVITIES ARE PROGRESSING ON SCHEDULE. WE HAVE BEEN ABLE TO ABSORB SOME INDIVIDUALS WITHIN OTHER COMMISSION ORGANIZATIONS AND HAVE ASSISTED MANY INDIVIDUALS IN FINDING EMPLOYMENT IN THE U.S. THIS HAS SERVED TO MINIMIZE THE PERSONNEL TURBULENCE ASSOCIATED WITH THIS SIGNIFICANT EVENT.

PERSONNEL ACTIVITY

OUR SUCCESS IN MAINTAINING THE SAFE, CONTINUOUS, AND EFFICIENT OPERATION OF THE WATERWAY INDICATES OUR ACHIEVEMENT IN RETAINING AND DEVELOPING THE REQUIRED SKILLED WORKFORCE. ONE OF OUR MAJOR TASKS HAS BEEN TO STABILIZE AND DEVELOP THIS WORKFORCE IN LIGHT OF THE UNUSUALLY HIGH PERSONNEL TURBULENCE EXPERIENCED IN THE FIRST YEAR OF TREATY IMPLEMENTATION. THE DEGREE OF SUCCESS ACHIEVED IN RETAINING A SKILLED WORKFORCE IS DEMONSTRATED IN THE RELATIVELY LOW RATE OF RETIREMENTS AND RESIGNATIONS OF U.S. CITIZEN EMPLOYEES. THIS CATEGORY OF EMPLOYEES REPRESENTS THE SKILLED WORKFORCE NECESSARY TO ENSURE AN ORDERLY CONTINUATION OF CANAL OPERATION AND SMOOTH TRANSITION TO PANAMANIAN CONTROL.

A TOTAL OF 118 U.S. CITIZEN EMPLOYEES RETIRED DURING FISCAL YEAR 1981. THIS COMPARES TO 185 U.S. CITIZEN RETIREMENTS DURING THE PREVIOUS FISCAL YEAR. RESIGNATIONS FOR THIS CATEGORY OF EMPLOYEES WERE 76 IN FISCAL YEAR 1981 COMPARED TO 54 IN 1980. OF THE TOTAL 7,809 FULL-TIME PERMANENT COMMISSION EMPLOYEES AT FISCAL YEAR END 1981, 1,848 WERE U.S. CITIZENS. THESE U.S. CITIZEN EMPLOYEES WILL PROVIDE US THE EXPERTISE TO CONTINUE THE OPERATION AS

WE DEVELOP, RECRUIT, AND TRAIN PANAMANIAN EMPLOYEES FOR THEIR EVENTUAL ASSUMPTION OF CANAL OPERATION.

INCREASED PANAMANIAN PARTICIPATION-TRAINING AND RECRUITMENT

STEADY PROGRESS HAS BEEN MADE IN OUR EFFORTS TO MEET THE TREATY MANDATE OF INCREASED PANAMANIAN PARTICIPATION IN THE CANAL'S OPERATION. OUR EFFORTS INCLUDE PLACEMENT OF QUALIFIED PANAMANIANS IN KEY MANAGEMENT POSITIONS, A HIRING POLICY WHICH GIVES PREFERENCE TO PANAMANIAN CITIZENS, AND COMPREHENSIVE TRAINING PROGRAMS TO TRAIN PANAMANIAN EMPLOYEES.

TWO KEY MANAGEMENT POSITIONS WERE FILLED RECENTLY WITH PANAMANIAN CITIZENS. IN NOVEMBER WE ANNOUNCED THE APPOINTMENT OF A PROMINENT PANAMANIAN, EXPERIENCED IN COMMUNICATION AND PUBLIC RELATION ACTIVITIES, TO FILL THE POSITION OF DIRECTOR OF PUBLIC AFFAIRS. THIS ENDED AN EXHAUSTIVE SEARCH TO FILL THIS HIGHLY VISIBLE POSITION WITHIN OUR MANAGEMENT ORGANIZATION. THIS APPOINTMENT HAS SERVED TO STRENGTHEN OUR RELATIONS AND TIES WITH THE PANAMANIAN COMMUNITY.

ALSO, THE PROMOTION OF A PANAMANIAN EMPLOYEE TO THE POSITION OF CHIEF OF THE DREDGING DIVISION WAS ANNOUNCED IN DECEMBER. THIS ENGINEER HAS CAPABLY SERVED SEVERAL YEARS AS THE ASSISTANT CHIEF OF THIS IMPORTANT ORGANIZATION. HE JOINS THE RANKS OF AN INCREASING NUMBER OF PANAMANIAN EMPLOYEES WHO FILL KEY POSITIONS IN OUR MANAGEMENT STRUCTURE.

ADJUSTMENTS ARE CONTINUALLY BEING MADE TO OUR PERSONNEL STRUCTURE AS WE IMPLEMENT THE PANAMA CANAL EMPLOYMENT SYSTEM PROVIDED FOR IN THE TREATY AND IN THE PANAMA CANAL ACT OF 1979. THE NEW EMPLOYMENT SYSTEM IS SIMILAR TO THE FORMER CANAL ZONE MERIT SYTSTEM. HOWEVER, THE PANAMA CANAL EMPLOYMENT SYSTEM ADDITIONALLY INCLUDES PROVISIONS FOR HIRING PREFERENCE FOR PANAMANIANS, A FIVE-YEAR ROTATION POLICY FOR NON-PANAMANIAN EMPLOYEES HIRED ON OR AFTER THE TREATY EFFECTIVE DATE, RECOGNITION OF PROFESSIONAL LICENSES ISSUED BY THE REPUBLIC OF PANAMA, AND REDUCTION OF THE NEED FOR OFF-THE-ISTHMUS RECRUITMENT THROUGH INTENSIFIED LOCAL RECRUITMENT EFFORTS AND SPECIAL TRAINING AND DEVELOPMENT PROGRAMS

TRAINING PROGRAMS ARE BEING CONDUCTED THAT WILL CONTRIBUTE TO INCREASED PANAMANIAN PARTICIPATION IN ALL AREAS AND LEVELS OF THE PANAMA CANAL COMMISSION, AS REQUIRED BY THE TREATY. THESE INCLUDE:

--IDENTIFYING PANAMANIAN EMPLOYEES WITH THE POTENTIAL TO OCCUPY SUPERVISORY AND MANAGERIAL POSITIONS, AND DETERMINING THEIR TRAINING NEEDS;

--REESTABLISHING A COOPERATIVE EDUCATION PROGRAM IN AN EFFORT TO EMPLOY PANAMANIAN STUDENTS IN TRAINEE POSITIONS RELATED TO THEIR PROFESSIONAL FIELDS OF STUDY;

--PROVIDING CAREER COUNSELING TO ASSIST PANAMANIAN EMPLOYEES IN THE ADVANCEMENT OF THEIR CAREERS;

--COORDINATING CLOSELY WITH PANAMANIAN AUTHORITIES ON THE AVAILABILITY OF SCHOLARSHIPS IN NAVAL AND MARITIME ACADEMIES IN THE UNITED STATES;

--EXPANDING INDUSTRIAL SCHOOL FACILITIES FOR THE TRAINING OF MORE PANAMANIANS EACH YEAR IN TECHNICAL SKILLS; AND

--DEVELOPING A PILOT TRAINING PROGRAM THAT IS DESIGNED TO TRAIN QUALIFIED PANAMANIAN NAUTICAL SCHOOL GRADUATES AS CANAL PILOTS.

LABOR/MANAGEMENT RELATIONS

OUR FIRST COLLECTIVE BARGAINING AGREEMENT WAS NEGOTIATED WITH THE PILOTS' UNION AND IMPLEMENTED JANUARY 2, 1981. WE ARE PLEASED WITH THE RESULTS OF THIS AGREEMENT AFTER A YEAR'S EXPERIENCE, AS THE CANAL ORGANIZATION HAS BENEFITED THROUGH INCREASED PRODUCTIVITY.

THE FIRST AGENCY-WIDE UNION ELECTIONS WERE HELD IN 1981 WITH A HIGH EMPLOYEE PARTICIPATION. AS A RESULT OF THESE ELECTIONS, FOUR UNIONS, IN ADDITION TO THE PILOTS' UNION, HAVE BEEN RECOGNIZED BY THE U.S. FEDERAL LABOR RELATIONS AUTHORITY. THESE UNIONS ARE ACTIVELY ORGANIZING AND PREPARING TO COMMENCE COLLECTIVE BARGAINING TALKS WITH THE COMMISSION.

MORALE AND QUALITY OF LIFE

THE MORALE AND QUALITY OF LIFE OF OUR EMPLOYEES CONTINUE TO BE ITEMS OF CONCERN. WE HAVE TAKEN POSITIVE ACTION TO MEET AND ADDRESS PROBLEMS RAISED

THROUGH OUR MANAGERS AND SUPERVISORS, THE OFFICE OF THE OMBUDSMAN AND RESIDENT ADVISORY COMMITTEES, AND HAVE MAINTAINED A SENSITIVITY TO THIS IMPORTANT FACET AFFECTING OVERALL OPERATIONAL EFFECTIVENESS. THE PROJECTED ADVERSE EFFECT OF TREATY IMPLEMENTATION ON OUR EMPLOYEES' MORALE APPEARS LARGELY TO HAVE BEEN OVERCOME. CONSEQUENTLY, THE OPERATIONAL IMPACT HAS BEEN MINIMIZED.

THE COOPERATION OF MILITARY COMPONENTS THAT NOW PROVIDE THE MAJORITY OF OUR SUPPORTING ACTIVITIES--SCHOOLS, COMMISSARIES, EXCHANGE FACILITIES, AND MEDICAL SERVICES--HAS ALSO BEEN SOUGHT. WITH THEIR ASSISTANCE, WE HAVE BEEN ABLE TO RESOLVE A NUMBER OF PROBLEM AREAS THAT EXISTED DURING THE FIRST YEAR OF THE TREATY. WE WILL CONTINUE TO SEEK IMPROVEMENTS IN THESE AREAS, AS WELL AS THOSE UNDER OUR DIRECT CONTROL.

APPROPRIATION REQUEST

OUR APPROPRIATION REQUEST COVERS AN APPROPRIATION REQUIREMENT FOR THE PANAMA CANAL COMMISSION IN FISCAL YEAR 1983 TOTALING $452.6 MILLION. THIS INCLUDES $423.6 MILLION FOR OPERATIONAL REQUIREMENTS DURING THE YEAR AND $29.0 MILLION FOR CAPITAL EQUIPMENT AND CONSTRUCTION TO REMAIN AVAILABLE UNTIL EXPENDED. ALL FUNDS AUTHORIZED FOR APPROPRIATION TO THE COMMISSION ARE TO COME FROM THE PANAMA CANAL COMMISSION FUND.

OPERATING EXPENSES

THE APPROPRIATION REQUIRED FOR OPERATING EXPENSES IN FISCAL YEAR 1983 IS $423.6 MILLION. THE MAJOR COST COMPONENTS OF THIS TOTAL INCLUDE $207.9 MILLION FOR PERSONNEL COMPENSATION, $75.4 MILLION FOR TREATY PAYMENTS TO PANAMA, AND $68.6 MILLION FOR SUPPLIES AND MATERIALS.

THE APPROPRIATION REQUESTED FOR 1983 REPRESENTS AN INCREASE OF $22.8 MILLION OVER THE AMOUNT AUTHORIZED FOR OPERATIONS IN 1982. MOST OF THIS INCREASE REFLECTS COST ESCALATIONS. HOWEVER, IT DOES INCLUDE $3.4 MILLION IN EARLY RETIREMENT COSTS RESULTING FROM THE CONVERSION IN THE CALCULATION METHOD BY OFFICE OF PERSONNEL MANAGEMENT TO A DYNAMIC FROM A STATIC BASIS.

THE $75.4 MILLION FOR TREATY PAYMENTS TO PANAMA IS COMPRISED OF A $10.0 MILLION FIXED ANNUITY PAYMENT, A $10.0 MILLION PAYMENT FOR PUBLIC SERVICES THAT PANAMA IS TO PERFORM, AND $55.4 MILLION PAYMENT CALCULATED ON THE PANAMA CANAL NET TONS TRANSITED.

CAPITAL PROGRAM

THE COMMISSION'S CAPITAL PROGRAM REFLECTS $29.0 MILLION IN BUDGET AUTHORITY FOR 1983 AND IS DEDICATED PRIMARILY TO IMPROVE TRAFFIC CAPACITY AND SAFETY, AS WELL AS OPERATIONAL EFFICIENCY. ACCORDINGLY, $21.8 MILLION OF THAT AMOUNT WILL BE APPLIED TO THE TRANSIT OPERATIONS FUNCTION. THIS PROPOSED CAPITAL PROGRAM REFLECTS OUR CONTINUED EMPHASIS OF ENSURING THAT THE CANAL REMAINS OPERATIONALLY VIABLE NOW AND FOR THE FUTURE. IT WILL EXTEND AND COMPLEMENT THE PROGRAMS ALREADY BEGUN THAT ARE DESIGNED TO INCREASE CANAL CAPACITY AND SAFETY OF OPERATIONS.

THE SIGNIFICANT PROJECTS IN THE 1983 PROGRAM INCLUDE REPLACEMENT OF A TUGBOAT ($4.9 MILLION); REPLACEMENT OF AN INDUSTRIAL DIVISION DRYDOCK MARINE RAILWAY ($4.2 MILLION); REPLACEMENT OF A DUMP SCOW ($2.0 MILLION); REPLACEMENT OF CERTAIN LOCK TURNTABLES ($1.4 MILLION); AND MISCELLANEOUS REPLACEMENT AND ADDITIONS OF THE DIVERSIFIED TRANSIT EQUIPMENT ($2.6 MILLION).

PANAMA CANAL COMMISSION FUND

THE PANAMA CANAL ACT OF 1979 PROVIDES THAT NO FUNDS MAY BE APPROPRIATED TO OR FOR THE USE OF THE COMMISSION FOR ANY FISCAL YEAR IN EXCESS OF THE REVENUE ESTIMATED FOR DEPOSIT IN THE PANAMA CANAL COMMISSION FUND DURING THE YEAR, PLUS PRIOR DEPOSITS TO THE FUND REMAINING UNEXPENDED AT THE BEGINNING OF SUCH YEAR. THE 1983 REQUEST IS IN COMPLIANCE WITH SUCH PROVISIONS OF THIS ACT.

THE OPERATING REVENUES TO BE DEPOSITED BY THE PANAMA CANAL COMMISSION INTO THE PANAMA CANAL COMMISSION FUND DURING FISCAL YEAR 1983 ARE ESTIMATED AT $467.8 MILLION OF WHICH $335.9 MILLION WILL COME FROM TOLLS AND $131.9 MILLION FROM OTHER SERVICES. IN ADDITION, THE COMMISSION WILL DEPOSIT $0.1 MILLION FOR SALES OF FIXED ASSETS. TOTAL DEPOSITS FOR FISCAL YEAR 1983 IN THE PANAMA

CANAL COMMISSION FUND ARE PROJECTED TO BE $467.9 MILLION. THIS, COUPLED WITH THE UNEXPENDED BALANCE OF THE FUND FROM FISCAL YEAR 1982 WILL EXCEED THE REQUESTED APPROPRIATION.

PROJECTED TOLL RATE INCREASE - FISCAL YEAR 1983

THE TOLLS REVENUE BUDGETED FOR FISCAL YEAR 1983 REFLECTS AN APPROXIMATE 13 PERCENT TOLLS RATE INCREASE. THIS INCREASE IS PRIMARILY NECESSITATED BY THE LOSS OF ALASKAN NORTH SLOPE OIL TRAFFIC AND ESCALATING OPERATING COSTS INCLUDING THE CONVERSION TO THE DYNAMIC METHOD OF COSTING EARLY RETIREMENT COSTS. THE TOLLS INCREASE WILL BECOME EFFECTIVE OCTOBER 1, 1982 AND IS EXPECTED TO GENERATE APPROXIMATELY $38.9 MILLION. THIS INCREASE IS NECESSARY TO COMPLY WITH THE REQUIREMENTS OF LAW THAT TOLLS BE ESTABLISHED TO COVER ALL COSTS OF MAINTAINING AND OPERATING THE PANAMA CANAL.

CONCLUSION

IN CONCLUSION, THE PANAMA CANAL COMMISSION IS COMMITTED TO PROVIDING RELIABLE, EFFICIENT SERVICE TO WORLD SHIPPING. THE OPERATING AND CAPITAL PROGRAMS PROPOSED FOR FISCAL YEAR 1983 WILL ENABLE US TO ACCOMPLISH THIS AND ENSURE THE CANAL'S VIABILITY FOR THE FUTURE. DETAILED DESCRIPTIONS OF THE OPERATING AND CAPITAL PROGRAMS FOR THE COMMISSION FOR FISCAL YEAR 1983 ARE INCLUDED IN THE JUSTIFICATION BOOKLET PREVIOUSLY FURNISHED TO THE COMMITTEE.

MR. CHAIRMAN, THAT CONCLUDES MY PREPARED REMARKS. I SHALL BE PLEASED TO ANSWER ANY QUESTIONS THAT YOU OR OTHER MEMBERS OF THE COMMITTEE MAY HAVE.

DEACTIVATION OF POLICE DIVISION

Senator ANDREWS. Thank you. As I understand it, the Commission will deactivate its police division on March 31, 1982, and establish liaison services beginning April 1. What are the expected impacts of these actions on U.S. citizens in the canal area? What new services will the liaison activity provide? Are these temporary or permanent services?

Mr. MCAULIFFE. Among the U.S. citizen employees of the Commission, there is some concern about the impact of disestablishment of our police force at the end of this month.

However, our police force has been operating closely with the police force of Panama—that is to say, the Guardia Nacional—and the results of the joint patrols involving Panamanian policemen and Commission policemen have been quite reassuring to our community. It is expected that those Panamanian police who have been working with our police through the last 2½ years will continue to serve in the canal operating area and this also is reassuring to our people.

LIAISON SERVICES

Now, as regards the liaison services unit which we plan to establish as of April 1, the unit will amount to about 28 people. All of those individuals are former policemen from the Panama Canal Commission, nevertheless, the liaison unit will not perform any police functions. Its duty will simply be to assist employees of the Commission who get involved in the police and court system of Panama and similarly to assist the Commission itself should we become involved in the police and court system of Panama.

The assistance will be in the nature of facilitating the movement of the individual through the police and magistrates courts, keeping track of the individuals, making sure that communication is maintained and such material assistance provided as necessary. It appears likely that the liaison unit may require certain legal assistance to be effective.

This does not extend to, let us say, defending the individual in a Panamanian court. That would have to be provided, of course, by the individual and similarly by the Commission if we should be challenged in such a forum. But we do intend for this kind of a service to be continued on a permanent basis and it would be available for all of the employees of the Commission, both Panamanian and U.S. citizens.

CAPACITY INCREASE

Senator ANDREWS. Thank you. You are projecting a decrease in traffic in 1983 primarily because of Alaskan oil which will be diverted through the Trans-Panama pipeline as I understand it, yet you are investing significant capital outlays in projects to increase your capacity. How much do you expect your capacity to increase during 1983?

Mr. MCAULIFFE. We are hoping that we will achieve by the end of 1983 a 15-percent increase in capacity over that which was in effect when the Commission came into being in late 1979. Most of the capital projects that will give us this increase were funded in 1981 and 1982.

Indeed, we are seeing now the results of that capital investment. We have received three tugboats over the last year, a little over a year. We have received 6 of 10 new locomotives that will be employed at the locks for the transiting particularly of the larger ships that require more locomotives.

We are in the process of completing the high-mast, high-intensity lighting at Gatun locks, which is another major aspect. And we are just about to start on the construction of a mooring station or tieup station in the Gaillard Cut just north of Pedro Miguel locks.

All of these projects are underway. The funding for 1983 serves to round out the capacity projects and then importantly goes on to replace a great deal of old equipment necessary to sustain our efficient operation.

Mr. GIANELLI. It seems to me that what is going to happen, Senator, is that there will be a temporary drop when the Trans-Panama pipeline gets built in terms of traffic. But I think the projection is that that will pick up after a short period of time.

We will then go into an increased need for additional capacity. So I think the lull we are talking about in 1983 perhaps will be a temporary one until that is replaced by other ships that will be transiting.

Senator ANDREWS. But the point is, you are projecting a decrease in traffic in 1983 at the very time that you are going to increase your capacity. Is that economically sound?

Mr. GIANELLI. Let me comment further. As I indicated, I think the 1983 drop will be temporary. I think our projections show that the traffic will pick up again. In addition, I think we have a problem right now; for example, the backlog that occurred this past winter reached as high as 120 ships waiting to transit the canal. I think right now there are somewhere around 60.

So even though there is going to be a decrease in total number of ships, we think there is a need right now for additional capacity.

ALTERNATIVE TO CANAL

Senator ANDREWS. What about the impact of other projects like the Mexican landbridge in the future years?

Mr. GIANELLI. Our analysis of the Mexican landbridge is that the impact will be very minimal. The Slurry pipeline is another one that has some uncertainty attached with it. It is possible that those things, if they do come into being, would have a cumulative effect.

But we still think that there is a need for additional capacity, particularly to try and take care of the unevenness of the way the ships come in.

SITUATION IN CENTRAL AMERICA

Senator ANDREWS. What impact have the recent disruptions in Central America had on your operations regarding the level or the security of cargo passing through the canal?

Mr. MCAULIFFE. The disruptions in Central America have had no apparent impact on our traffic or on the security of the canal. I believe that it would be important to note that the situation in Panama is quite substantially different from that in these Central American countries in turmoil.

There is stability in Panama, and I do believe that the presence of U.S. forces in Panama dedicated to the defense and protection of the Panama Canal contributes an additional stabilizing element to the situation.

Senator ANDREWS. Can you assure the subcommittee and the Congress that over the next decade, given the problems in El Salvador, Nicaragua, and a host of other places, that that traffic will continue unimpeded?

Mr. GIANELLI. Let me try on that, Senator. I don't think anyone can make any positive guarantees along the lines of what you are suggesting. I think what Mr. McAuliffe is trying to say is, we feel pretty confident with the present situation down there, and hopefully things will not reach the point where the conditions you hypothesize might arise.

We do feel comfortable with the fact we have U.S. troops stationed there. We think we have a good security force. And barring something that we can't anticipate, we feel very comfortable about the situation at the present time. I think that is probably about as far as we would be able to go.

NORTHERN TIER PIPELINE

Senator ANDREWS. That is as far as any of us can go.

The jurisdiction of the subcommittee deals with the transportation not only of people but also of goods. And in this regard, I am delighted to know that the Corps of Engineers, just a week ago, issued a final Federal permit on our northern tier pipeline project which is a privately funded liquid crude oil pipeline from the State of Washington across the northern tier States to Minnesota. The project has enjoyed the full support of the past and present administration.

You played a key role and we appreciate your efforts in moving that forward. The substantial requirement in the decisionmaking process is the necessity to consider the national defense of this Nation. Isn't that essentially what you based that decision on?

Mr. GIANELLI. That wasn't the principal reason for the decision, Senator, but that was certainly a consideration.

Senator ANDREWS. Of course, we feel that the requirement for the defense capability of the country is well satisfied by the construction of a wholly contained U.S. pipeline to middle America from the west coast for the transportation not only of Alaskan oil but also Indonesian oil.

Now we find this project in jeopardy within the State of Washington. Apparently no consideration is being given to the problems that might evolve in the next decade because of the state of unrest in Central America or the prospect that some time in the future not only the Panama Canal but also that oil pipeline across the isthmus could be in jeopardy.

I think the Secretary of Energy, Jim Edwards, said it best in a communication with the elected officials of Washington State. I am quoting. He said, "The need for a west to east delivery system for the northern tier and inland States is urgent, clear, and compelling, and in the best interest of the United States."

Certainly those of you in the Department of the Army have no objection to that. In fact, that is one of the reasons you got behind the pipeline.

Mr. GIANELLI. I think that is correct, Senator. I think we recognized the validity of the point you are making.

PAYMENTS TO PANAMA

Senator ANDREWS. One final question: The payments to Panama are made when revenues exceed expenditures; is that correct?

Mr. MCAULIFFE. Not entirely, sir. There is a schedule of payments called for in the treaty and provided for in our appropriations which are made regularly to Panama, such as its share of the tolls, reimbursement for public services rendered by Panama, and another $10 million fixed annuity.

Those account for about $75 million a year, on the average, to Panama. There is an additional contingency payment provided for in the treaty which prescribes that up to $10 million of any profit margin made in the course of 1 year would be paid to Panama.

However, that contingency payment is not included in our tolls formula, nor is it provided for in our appropriation. We just have to determine whether or not we are making a profit and then if that happens, as happened our first year, we submit a supplemental appropriation to the Congress specifically for that payment.

Senator ANDREWS. But roughly, if we do well, Panama gets the profit. And if we do poorly, we have a year to make up the difference. Is that essentially correct?

Mr. MCAULIFFE. That is just about right; yes, sir.

EMERGENCY FUND

Senator ANDREWS. Does the money used for the deficit in operations come from the emergency fund or from the past year's revenue?

Mr. MCAULIFFE. It comes from future tolls, in effect. It does not come from the emergency fund. As I pointed out, there are——

Senator ANDREWS. For what purpose do you use the emergency fund?

Mr. MCAULIFFE. The emergency fund, Senator, is used for legitimate emergencies that occur at the canal, for example, for corrective engineering action to take care of a landslide and reopen the canal, or the removal of a blocking ship or similar problem.

Senator ANDREWS. Have you used any of that money this year?

Mr. MCAULIFFE. We have not used the emergency fund since it was created.

Senator ANDREWS. And because it is "emergency," you can't anticipate any use of it in the upcoming year?

Mr. MCAULIFFE. That is correct, sir.

SUBMITTED QUESTIONS

Senator ANDREWS. Thank you very much. I have a series of questions that will be included for you to answer in the record. Some of the other members of the subcommittee may have questions for you to answer on the record as well. Thank you so much.

Mr. MCAULIFFE. We would be pleased to do so, and thank you for your courtesy.

Mr. GIANELLI. Thank you very much, Senator.

Senator ANDREWS. Thank you.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

REPLACEMENT TRANSPORTATION SERVICE

Senator Andrews: In 1981, arrangements were negotiated with the Department of the Army's Military Traffic Management Command (MTMC) to transport Commission cargo on contracted vessels. This resulted in the retirement of the Commission's Steamer/Freighter, the SS CRISTOBAL. How is this arrangement working? Provide an assessment of the costs involved under both arrangements.

Mr. McAuliffe: In May of 1981, the Panama Canal Commission received approval to ship its cargo under the contract agreements of the Defense Transportation System. Since the decommissioning of the SS CRISTOBAL in November 1981 and up through February of 1982, the arrangement has worked well. Commission cargo was being shipped out of New Orleans under the Defense Transportation contract with Lykes Brothers Company and the service has been dependable and efficient.

In recent weeks MTMC has begun routing Commission cargo to the Port of Savannah, Georgia, in order to take advantage of a more favorable container rate offered by U. S. Lines under the current MSC container contract. The change in routing has caused some problems which we are evaluating. The service remains generally satisfactory.

The cost of transporting Commission cargo with the SS CRISTOBAL versus the cost under the Defense Transportation contracts is estimated to save around $2.5 million.

NEW WAGE SYSTEM

Senator Andrews: Please detail in general terms for the record the major highlights of the new wage system approved by the Commission Board in December 1981 to replace the Panama Area Wage Base.

Mr. McAuliffe: The new wage system provides for significant increases in wages for skilled, professional and management occupations for those individuals employed since October 1, 1979. The new wage system eliminates the fixed entry rate provisions and provides for within-grade steps, highest previous rate and quality step increases. The overall result has been to improve the competitiveness of the Commission's wager in the local job market. The additional cost of implementing the new pay system is expected to be around $700,000 for FY 1982.

TELEPHONE SERVICE

Senator Andrews: Are you still having problems with telephone service operations? If so, what are the nature of those problems? What steps have been taken to resolve the issues concerning rates and the unilateral cancellation by Panama's communications agency, INTEL, of an agreement on trunk lines connecting the two communications systems?

Mr. McAuliffe: We no longer have problems concerning communication services provided on behalf of INTEL. In an effort to resolve the long-standing financial impasse between the Panama Canal Commission and INTEL, the Commission agreed that the entire matter be submitted to informal, non-binding arbitration. As a result, in August 1981, a private consultant from the United States was engaged to conduct the review of each party's position.

Using the consultant's report as the basis for further negotiations, personnel from the Commission and INTEL met on several occasions, resolved the differences and entered into a formal agreement which was signed on December 18, 1981 by representatives of both parties.

The accounts between the parties have been settled retroactively for FY 1980 and FY 1981 and final settlement is imminent for the accounts covering the first quarter of FY 1982.

TRAINING PROGRAM

Senator Andrews: PCC has indicated a strong committment to training as the primary means of insuring the increased participation of Panamanians in Canal operations. The Commission expanded the industrial apprentice program and was providing special training and experience for Panamanians with advancement potential in the Administrative and Managerial areas. How successful have these programs been to date? Has the Commission had any success in finding skilled Panamanians in the Canal pilot or tugboat master fields? Identify numbers of Panamanians currently on force in these job categories.

Mr. McAuliffe: The Apprentice Program continues to be the primary source of qualified craftsmen needed to satisfy Commission requirements. At present there are 213 apprentices being trained in 30 craft areas. Of that number, 185 are Panamanians, an increase of 17% since September 30, 1979. The proportion of Panamanian to U.S. apprentices should continue to increase, regardless of the size of future apprentice classes.

The Commission has been able to eliminate U.S. recruitment in all occupations except pilot, due to aggressive effort to locate qualified local candidates. While we have not been successful in locating fully qualified Panamanian Towboat Masters, we do have applicants qualified at all trainee levels who can be employed and developed to full performance levels in a year or two. There are 24 Panamanians employed at various stages of training for towboat masters and pilot positions. Of the 79 Towboat Masters currently on our rolls, 18 are Panamanians. It is expected that the Towboat Master force will continue to provide a major source of applicants for positions as pilot. Most of the 10 Panamanian pilots were promoted from the Towboat Master ranks. This represents a 150% increase in the number of Panamanian pilots since September 30, 1979, when there were only four. The newly established Pilot Training Program, which will train nautical school graduates for entry into the pilot forces, should result in an increase in the number of Panamanian pilots over a long term. Although the first class has not begun, a number of excellent candidates have applied for pilot cadet positions and the selection process should begin soon.

EMERGENCY FUND

Senator Andrews: Last year, the Commission requested a supplemental for FY 1981 in order to establish an emergency fund to defray emergency expenses and to insure continued safe and efficient operation of the Canal when annual appropriations for such purposes proved insufficient. Does the Commission anticipate any withdrawals from this fund for FY 1982.

Mr. McAuliffe: No withdrawals from the emergency fund are planned in FY 1982. The emergency fund is needed to defray emergency expenses and to insure the continuous, efficient, and safe operation of the Panama Canal, if funds appropriated for the operation and maintenance of the Canal are insufficient for such purposes. Although the probability of use of the emergency fund in any given year is uncertain, should the occasion arise which requires immediate and substantial funding over and above available resources, the emergency fund may be the only means to continue the operation of the waterway.

PRINCIPAL COMMODITIES

Senator Andrews: What are the principal commodities currently being shipped through the Canal? Provide a chart for the record showing the principal commodity groups transiting the Canal as a percent of total cargo in fiscal year 1981.

Mr. McAuliffe: The following table is provided.

Principal Commodity Groups
Transiting the Canal
Oceangoing Commercial Cargo

(thousands of long tons)

Commodity Groups	FY 1981 Tonnage	Percent
Petroleum and Products	49,404	28.9
Grains	34,376	20.1
Coal and Coke	20,210	11.8
Nitrates, Phosphates, Potash	8,550	5.0
Ores and Metals	8,532	5.0
All Other	50,150	29.2
Total	171,222	100.0

MAJOR TRAFFIC ROUTES

Senator Andrews: Also for the record, include a table showing the major trade routes in Canal traffic by tonnage in fiscal year 1981.

Mr. McAuliffe: The following table is provided.

Major Trade Routes in Canal Traffic
Fiscal Year 1981
(In thousands of tons)

Trade Route	Panama Canal Net Tons	Long Tons Cargo
East Coast United States - Asia	63,756	64,181
East Coast United States - West Coast Central America 1/	27,467	25,332
East Coast United States - West Coast South America	15,267	10,595
Europe - West Coast United States/Canada	13,252	13,766
Europe - West Coast South America	8,984	5,513
U. S. Intercoastal (including Alaska and Hawaii	7,357	6,737
East Coast United States/Canada-Oceania	5,157	4,866
East Coast Canada-Asia	4,992	3,808
West Indies - West Coast Central America	4,586	2,383
West Indies - West Coast South America	4,153	3,993
East Coast South America - Asia	3,724	3,489
South American Intercoastal	3,204	3,642
Subtotal	161,899	148,305
All other routes	26,757	22,917
Total	188,656	171,222

1/ In Canal trade route statistics North Slope oil originating in Alaska is shown as transshipped cargo from Puerto Armuelles, Panama, if the vessel's voyage originated there.

WORKLOAD MEASUREMENTS

Senator Andrews: With regard to workload measurements, update figures provided for the FY 1982 hearings showing the number of tons transitted per dollar of expense to include FY 1981.

Mr. McAuliffe: The following table is provided.

PANAMA CANAL

WORKLOAD MEASUREMENTS

	Panama Canal Net Tons Transiting	Total Net Operating Expenses 1/ (In Millions)	Tons per Dollar of Expenses
Panama Canal Commission 2/			
FY 1981	189.5	$303.7	.62
FY 1980	183.2	290.7	.63
Panama Canal Company			
FY 1979	168.5	210.0	.80
FY 1978	157.6	180.1	.88
FY 1977	134.0	164.7	.81

1/ Net operating expenses represent the total expenses less revenues from all sources other than tolls.

2/ Includes payment to the Republic of Panama.

RADAR SURVEILLANCE

Senator Andrews: In fiscal Year 1982, your budget included a request of about $1 million for radar installations at the Cristobal Anchorage and closed circuit television surveillance of selected portions of the waterway to be monitored at the Marine Traffic Control Center. The surveillance system was to be installed during 1982 and 1983 and result in safety improvements and decreased operating costs. What is the status of this system? Please detail any safety or cost improvements which have thus far resulted from use of this system.

Mr. McAuliffe: Engineering design and specifications for a closed circuit television system are being completed. During FY 1982 it is programmed to initiate the final phase of this project with installation at four locations in the Canal. Subsequent installations are scheduled for FY 1983 and 1984 after which full coverage of all key locations will be completed. Since the project is not operational, no safety or cost improvement from this project have been attained.

TREATY PAYMENTS

Senator Andrews: Detail for the record the treaty-related payments to the Republic of Panama for fiscal year 1981. Break these down by category.

Mr. McAuliffe: The following tabulation is provided:

Item	1981 Actual (In thousands)
Payments based on PC net tons transiting	$ 56,863
Public service payment	10,000
Fixed annuity	10,000
Contingency payment based on FY 1980 results	2,699
Total	$ 79,562

CONTINGENCY PAYMENT

Senator Andrews: The treaty requires a contingency payment to the Republic of Panama representing the excess of operating revenues over expenditures. What was the size of this payment in FY 1981 and what is its estimated size for fiscal year 1982?

Mr. McAuliffe: The contingency payments in FY 1981 based on the excess of operating revenues over expenditures, amounted to $2.7 million. The FY 1982 budget is structured on a breakeven basis and hence no payment to Panama is expected. Thus far, in 1982, we have experienced a net margin for the first four months, however, operating expenses of the Canal are subject to seasonal fluctuations and other factors which affect the timing of cost incurrence. Accordingly, it is anticipated that these timing differences are likely to reverse the operating picture and result in essentially a breakeven operation by year-end.

VESSEL REPAIR SERVICES

Senator Andrews: Your operating expenses for vessel repair services have increased about 27% since 1981, from about $11.4 million to $15.6 million. Since you are requesting about $11.3 million for new capital improvements such as tugboats, a dump scow, launches, and a dredge, please account for this increase in the costs of operating your repair facility.

Mr. McAuliffe: The increase in FY 1983 over 1981 is principally attributable to cost escalation and additional major maintenance and overhaul requirements. The additional cost in 1983 is associated with the requirements of other Commission activities and is performed for them on a cost transfer basis. The additional maintenance requirements in 1983 are principally due to:

a) A shift in the work performance for the Locks activity, i.e. miter gate overhaul versus rising stem valve overhaul with added costs, and

b) Additional requirement resulting from net additions to the tugboat fleet.

MARINE ACCIDENTS

Senator Andrews: In 1982, you estimated that $6.2 million would cover casualty losses and marine accidents in fiscal year 1981 and 1982. This has almost doubled to $12 million for this year. Provide justification for this increase and show the various categories of accidents as well as the percent which occurred in each category during fiscal year 1980 and 1981.

Mr. McAuliffe: The $12.2 million accrual for marine accidents and casualty losses consists of $12 million for marine accidents and $0.2 million for other casualty losses.

The increase in cost was a result of our loss experience in 1980 and 1981 on ship accidents. These costs are accrued at these amounts to reverse account. Actual costs of marine accidents are then charged to the reserve account when they are known. An estimated amount is charged to the reserve shortly after the accident and then this is adjusted when the settlement is made as significant new knowledge would cause a change in the estimate. Marine accident costs and casualty losses for incidents occuring in 1980 and 1981 are provided in the following table.

Marine Accidents and Casualty Losses
Incidents Occuring in 1980 and 1981

	1980		1981	
	Number of Marine Accidents	Amount	Number of Marine Accidents	Amount
		(Dollars in Thousands)		
Marine Accidents Claims				
Inside Locks	18	$ 1,463	21	$ 3,864

Outside the locks				
Under $120,000 per claim	18	637	11	445
Over $120,000 per claim	14	$ 7,774	12	$ 6,609
Sub-Total	50	$ 9,874 2/	44	$10,918
Other Marine Accident Costs	N/A	758 1/	N/A	755 1/
Total Marine Accidents	50	$10,632	44	$11,673
Casualty Losses		191		132
Total		$10,823		$11,805

1/ Includes miscellaneous Commission costs associated with accidents such as repairs to Commission facilities, witness expenses, and other costs not included in ship accident claims.

2/ Reflects adjustments made to the original estimates.

CHANGE IN APPROPRIATION LANGUAGE

Senator Andrews: Your 1983 appropriation language differs from the 1982 language in that you propose to merge the operating expenses and capital outlays appropriations, and to delete dollar limitations on certain categories of expenditures. Provide a listing of these categories and your justification for the proposed changes.

Mr. McAuliffe: The merging of the two appropriation accounts has been recommended by the Office of Management and Budget and the United States Treasury to simplify their accounting and control of the appropriation. This proposal would not in anyway diminish the controls over these appropriations. Amounts for capital and operation would still be separated, but within a single appropriation.

The dollar limitations are being proposed for deletion since we believe, that aside from a limitation on the reception and representation expenses of the Administrator, such limitations are not necessary. Such limitations or any other line item limitation inhibit the flexibility needed for the efficient, businesslike operation of the Commission and severely limit those activities affected.

There were seven categories of expenditures that are under limitation in 1982. The current appropriation language provides for the continuation of a limitation on the Administrator's reception and representation expenses, but would delete the limitations on the remaining six items. A description of each of the seven categories will be placed in the record along with the 1983 estimate of cost and an explanation of the cost elements included and excluded in arriving at the estimate.

The description follows:

PANAMA CANAL COMMISSION
Items Previously Subject to Congressional Limitation

	FY 1983 Estimate (In thousands)
1. Official Residence of the Administrator	$ 75

A. General: The "Official Residence of the Administrator" account provides for essential cost necessary to maintain the historical residence of the Head of the Agency which serves a dual purpose of providing facilities for official functions and also living quarters for the Administrator of the Panama Canal Commission. Applicable expenditures are costed to the Operating Appropriation Account.

B. This item includes:

a. General maintenance and repairs to the interior and exterior of building #107.

b. Utilities, including power and telephone services. The rates for these services are set at levels consistent with rates charged to the other Commission-owned facilities.

c. Maintenance and replacement costs of Commission's household appliances, furnishings and fixtures.

d. Other services and purchases which are directly related to the general upkeep of the residence, fumigation, cleaning of Commission owned items and others.

e. Maintenance of water, sewage and air conditioning system.

f. Extraordinary repairs such as termite damage required at the residence.

C. The item excludes:

a. Wages and other personnel benefits of a household staff, guards and grounds maintenance personnel which shall be an operating expense of the Commission.

b. Overhead on Commission services.

c. Grass cutting, gardening services, trash and garbage collection and removal.

PANAMA CANAL COMMISSION
Items Previously Subject to Congressional Limitation
(Cont'd.)

	FY 1983 Estimate (In thousands)
2. Official Reception and Representation ....$	25

A. General: The official "reception and representation" account provides the Commission the ability to promote our business relationship with principal users of the Canal. In addition, this includes representation expenses in conjunction with visits to the Commission by shipping firm executives, government officials, members of congress, as well as meetings, orientation tours and briefing sessions that are designed to foster the spirit of cooperation as the United States and Panama discharge the responsibilities brought about by the new Treaty with the Republic of Panama.

B. This item excludes:

a. Expenditures for Commission participation in public ceremonies or commemorative services, such as Fourth of July.

b. Public fairs and expositions.

c. International maritime conventions.

	FY 1983 Estimate (In thousands)
3. Contingency of the Administrator	$ 35

A. General: Provides for cash disbursements by the Administrator to employee community organizations for assisting recreational and community programs.

B. This item excludes: Assistance provided community and employee organizations such as maintenance of facilities used by community organizations, rent and utilities for buildings retained for use by the Commission, and minor purchases of equipment for community recreational activities.

PANAMA CANAL COMMISSION
Items Previously Subject to Congressional Limitation
(Cont'd.)

	FY 1983 Estimate (In thousands)
4. Expenses of the Supervisory Board	$ 101

A. General: The Board supervises the affairs of the Panama Canal Commission. The estimates provide principally for travel, transportation, per diem for board members, rental of meeting facilities, translation, contract secretarial service, food, refreshment and other incidental expenses.

B. This item excludes:

a. Travel and transportation, including per diem for Commission employees, and other personnel attending Board meetings.

b. Salaries of Commission employees involved in the support of the Board meetings.

	FY 1983 Estimate (In thousands)
5. Maintenance of GOP facilities	$5,733

A. General: This account covers Commission expenditures from the Operating Appropriation Account for maintenance and repairs of facilities owned by the Republic of Panama but retained for Panama Canal Commission use, as provided in Article XIII of the Panama Canal Treaty. The principal facilities covered by this limitation are the housing units of Commission employees (principally U. S. employees) over which the Panama Canal Commission retains full control.

B. This item excludes:

a. Unfunded costs such as depreciation and write-offs of capital improvements.

b. Expenditures for work performed for the Republic of Panama on a reimbursable basis.

c. Housing operation administrative or overhead on Commission services.

d. Janitorial services, grass cutting and other items of an operational nature.

PANAMA CANAL COMMISSION
Items Previously Subject to Congressional Limitation
(Cont'd.)

	FY 1983 Estimate (In thousands)
6. Consultants and Advisors	$ 600

A. General: Provides for expert consultant service in matters of special interest, canal improvements and organizational effectiveness.

B. This item excludes: Cost of providing office space, Commission secretarial support and local transportation unless stipulated by the contract.

	FY 1983 Estimate (In thousands)
7. Operation of Guide Services	$ 236

A. General: This account covers costs associated with the guide service providing the agency the ability to orient the public concerning the history and operation of the waterway.

B. This item includes:

a. Labor costs loaded for leave and retirement benefits of guides costed to the Office of Public Affairs.

b. Incidental services and purchases directly related to the operation of the guide service including MTD bus transportation, supplies and materials, etc.

c. Costs associated with the purchase and repair of public address system, audiovisual equipment and related supplies.

d. Maintenance of tourist facilities at Gatun and Miraflores Locks.

C. This item excludes:

a. The cost of printing general information brochures.

b. Sourvenirs, mementos, photos.

SPECIAL STUDIES

Senator Andrews: Detail for the record any special studies you plan to conduct and the estimated costs of these studies.

Mr. McAuliffe: The Commission has numerous on-going special studies, usually performed by Commission personnel. These studies are generally oriented on Canal improvements, such as strobe lights to improve navigation under fog condition, and firefighting systems for tugboats; there are other miscellaneous studies to resolve problems or improve the locks and other transit related facilities and equipment. The cost for each such study is generally under $30 thousand.

TURNOVER OF FACILITIES TO PANAMA

Senator Andrews: The Panama Canal Treaty calls for the return of facilities and operating functions to the Republic of Panama to be completed in 1999. What is the current status of these activities? What milestones have been achieved since the treaty was signed? What is the schedule of future milestones? Provide detail for the record.

Mr. McAuliffe: At entry into force of the Panama Canal Treaty of 1977 on October 1, 1979, the responsibility for the operation of the ports of Balboa and Cristobal including the marine bunkering activity, the Panama Railroad and their associated assets transferred to Panama. In areas made available by the treaty to the Panama Canal Commission, Panama assumed responsibility for public services such as road and street maintenance, street cleaning, street lighting certain fire protection and police protection. Three townsites, occupied primarily by employees of the Commission who were not U.S. citizens, were turned over together with their infrastructures, pursuant to treaty. Various other assets, including buildings, highways, and sewage, water and electrical distribution systems, were also transferred.

At the end of the transition period, March 31, 1982, Panama assumes responsibility for law enforcement in areas made available to the Panama Canal Commission. Included with this responsibility is the operation of prison system and courts. To effect these changes, on March 31, 1982, the Commission is scheduled to disestablish its Police Division and the Magistrates' Court. On the same date, the Balboa Police Station Complex and the Balboa Magistrates' Court Building will transfer to Panama. The former Canal Zone Penintetiary was transferred in December 1980 when it became excess through implementation of the Prisoner Exchange Treaty between the United States and Panama. To complete law enforcement changes, the U.S. District Court Building and a police training center building are scheduled by treaty to transfer on October 1, 1982.

Other facilities that are scheduled by treaty to transfer include the Mt. Hope warehouse area and the Mt. Hope motor transportation area on October 1, 1984. At that time, the treaty documents also call for the transfer of the use of at least twenty percent of Commission housing. Beyond that, the use of at least thirty percent is to pass within 10 years from entry into force of the treaty. Within 15 years, the use of a total of forty-five percent must pass, and within 20 years the use of a total of sixty percent will transfer to Panama.

Other assets that may pass to Panama prior to the year 1999 include the Balboa and Coco Solo Commissary installations, when the United States ceases to use these facilities, and the Pier 20 and Scrap Yard areas located in the Balboa Port at such time as they are required by Panama for expansion of that port and Panama provides acceptable substitute space. At the present time, the Commission has no plans to transfer either commissary installation to Panama. Furthermore, Panama has not requested the two Commission facilities in the Balboa Port.

At noon, Panama time, December 31, 1999, all remaining Commission facilities will transfer to Panama including locks, dams, buildings, and removable assets required for the operation of the waterway.

COORDINATING COMMITTEES

Senator Andrews: There is a continuing need for consultations and cooperation between the governments of the United States and the Republic of Panama regarding the day-to-day operation of the Canal. How effectively are the coordinating committees functioning for this purpose?

Mr. McAuliffe: Matters of mutual concern to the United States and Panama regarding the day-to-day operation of the Canal are handled mainly through the Coordinating Committee. This committee was established and given specific duties by the treaty documents, among which is the requirement to serve as a channel of communication and consultation between the two Governments.

In order to assist with performance of its responsibilities, the Coordinating Committee has formed the following eight subcommittees, the names of which are suggestive of their area of interest:

1. Employment Matters
2. Tax Matters and Supply of Goods and Services
3. Lands, Waters and Public Buildings
4. Housing
5. Police (to be disestablished March 31, 1982)
6. Fire Protection
7. Utilities and Public Services
8. Canal Bridge Project

Ports and Railroad Subcommittee is responsible for specific functions assigned by the treaty documents.

In the nearly thirty months since entry into force of the Panama Canal Treaty of 1977, the Coordinating Committee and its associated subcommittees have met frequently to resolve technical problems and to discuss matters of mutual interest. These discussions have been open, frank, constructive and conducted in a spirit of cooperation.

TOLL INCREASE

Senator Andrews: The Commission proposes to raise the transit toll rate 13% effective October 1, 1982. What is your rationale for this increase and how do you think this will affect the amount or type of traffic through the Canal?

Mr. McAuliffe: The rationale for this increase is that the Commission anticipates a considerable deficit in FY 1983 as a result of escalating costs and the loss of Alaska North Slope oil traffic. Based on this deficit and the requirement of law to operate on a self-sustaining basis, the Commission is planning an adjustment in the toll rates charged ships using the Panama Canal, and will strive to keep it less than 13%.

The International Research Associates study analyzed the sensitivity to toll rate increases of each of the 23 major commodity groups comprising total Panama Canal commercial cargo. The study included individual analyses of the impact of rate hikes on crude petroleum, petroleum products, wheat, coarse grains, soybeans and coal, as well as 16 other commodity groups. The sensitivity analyses indicate that with toll rate increases of less than 15%, there is no measurable impact on the volume of cargo moving through the Canal.

PANAMA CANAL ALTERNATIVES

Senator Andrews: Under the terms of the 1977 Panama Canal Treaty, Panama and the United States committed themselves to undertake a joint feasibility study of the sea-level canal option, and to negotiate mutually acceptable terms if there were agreement on the need for such a Canal. Has any action in this regard been initiated by the Commission? How about on the joint feasibility study regarding construction of a larger Canal?

Mr. McAuliffe: Action on a sea-level canal study is being handled by the Department of State.

Thus, no action to undertake a joint feasibility study has been initiated by the Panama Canal Commission. Commission personnel have, however, participated in meetings regarding the potential establishment of a preparatory committee. The preparatory committee would comprise representatives from the United States, Panama, and possibly other countries. Its role would be to determine the boundaries of any feasibility study, to include alternatives to a sea-level canal such as enlargement of the present Canal.

TRANSIT BOOKING SYSTEM

Senator Andrews: In December 1981, the Board approved a 120-day test of a new transit advance booking system for vessels that use the Canal. The purpose of the new system was to address previous deficiencies in the former system and the concerns of shippers and the Panamanian members. What were these previous deficiencies and are there any preliminary findings from this test, implemented in January 1982?

Mr. McAuliffe: The new test of a Transit Booking system introduced fundamental changes to the former system aimed at correcting deficiencies which were of concern to ship owners and operators. A booking fee was introduced to provide controls on the use of the system and prevent abuse. In the absence of a fee there would be no economic disincentive for seeking the premium service and everyone would request booking thus defeating one of the primary objectives of the system. A cancellation charge was introduced to prevent speculative booking and as means to prevent oversubscription. Other minor changes were introduced as refinements to the system or to facilitate its mechanics. The current test of the new system is still in its early stages and the data gathered thus far is inconclusive.

PERSONNEL MATTERS

Senator Andrews: It is my understanding that the Panama Canal Commission was faced with widespread personnel unrest in late 1979 and experienced a relatively high rate of resignations, RIFS, and retirements. During 1980, this situation apparently stablized somewhat, but all personnel problems were not completely resolved. Specially, what steps have you taken to address personnel dissatisfaction, low morale, and displacement through "bumping"?

Mr. McAuliffe: The personnel dissatisfaction, low morale, and displacement through bumping have been mitigated due, in large part, to our promotion priority program. Under this program, over 400 of the 745 employees who were placed in lower graded positions as a result of the October 1979 reduction in force, have now been repromoted to their former grades or to intervening grades. However, we are currently undergoing a further reduction in force, although a relatively small one, primarily due to the Treaty-directed elimination of our Police Division and our Magistrates' Courts. The resulting personnel changes will have some effect on employee morale, although to a limited extent.

RECOVERY OF PRIOR YEAR LOSSES

Senator Andrews: Your justification notes that you anticipate a breakeven operation in 1983 after recovery of the fiscal year 1981 operating loss. Your statement mentions a loss of $0.6 million during 1981, is that correct?

If no loss had been incurred, would we then have made a payment to Panama from the FY 1983 fund in the same amount as what would have been the FY 1981 loss?

Mr. McAuliffe: No, an element of cost to be recovered by the proposed toll increase in 1983 is the FY 1981 prior year loss. If there were no loss in 1981, the deficiency in 1983 would be less resulting in a lower tolls increase requirement.

PILOT AGREEMENT

Senator Andrews: You mention in your statement that your first collective bargaining agreement was negotiated with the pilots' union and implemented January 2, 1981. What are the new salary levels for pilots? Provide details of this agreement for the record.

Mr. McAuliffe: Basic pay of Canal pilots is limited by the Federal pay ceiling. However, due to the nature of their work assignment, pilots have the capacity to earn in excess of the pay ceiling due to other elements of pay not being subjected to the ceiling. These elements include overtime, Sunday and holiday pay and the productivity bonuses provided in the collective bargaining agreement with the pilots.

One of the important features of the collective bargaining agreement is the availability of productivity bonuses which are intended to provide additional compensation for additional work. These bonuses cover:

a) Performance of extra number of transits.

b) Extended transits

c) Harbor movements

d) Outside pilotage

e) Movement of large vessels during dusk/dawn periods at locks.

The agreement with the pilots has been mutually beneficial, serving to improve the service to the growing number and, particularly, size of ships transiting the Canal.

COLLECTIVE BARGAINING

Senator Andrews: You also mention that the first agency-wide union elections were held in 1981 and as a result, four unions have been recognized by the U. S. Federal Labor Relations Authority. What percentage of your employees are currently not unionized? What are your plans for holding union elections for these employees?

Mr. McAuliffe: The number of employees not unionized is estimated to be about 4%. Personnel presently not included in a bargaining unit are excluded pursuant to section 7112(b), 5 U. S. C. Chapter 71, of the Federal Service Labor-Management Relations Statute. This Statute prohibits such personnel as management officials, confidential employees, etc, from being included in bargaining units and accordingly, no union elections can be planned for these employees.

DEPARTMENT OF TRANSPORTATION

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

STATEMENT OF HOWARD DUGOFF, ADMINISTRATOR

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. Our next witness will represent the Research and Special Programs Administration of the Department of Transportation. Mr. Howard Dugoff, welcome to the subcommittee. Your statement will appear in full in the record. You can either proceed to summarize it or we can get right to the oral questions.

Mr. DUGOFF. Thank you very much, Mr. Chairman. Pursuant to your request, I will submit a formal statement for the record and right now just very briefly summarize some of its principal points. The Research and Special Programs Administration is a conglomerate administration with a set of diverse missions whose unifying feature is that they are multimodal in character.

The principal mission elements are: First, a regulatory program concerned with the assurance of safety in the transportation of hazardous materials; and, second, a major program of applied research supporting the various elements of the Department in the pursuit of their missions.

At present our principal institutional goal is to complete the process of reshaping the Administration and its programs to support the overall administration policies directed toward restoring the vitality of the U.S. economy, assuring national security, and reducing the size and pervasiveness of the Federal Government.

In accordance with this goal, we have been working diligently to reduce the scope of RSPA activities to the necessary minimum while at the same time improving their efficiency.

In fiscal 1981 our appropriation was $31.4 million. Our fiscal 1982 budget request was $26.4 million. We received a fiscal 1982 appropriation of $17.4 million, a reduction of approximately 45 percent from the fiscal 1981 level and approximately 34 percent less than our fiscal 1982 request.

To accommodate this drastic reduction, we were obliged to curtail or defer planned activities across the entire spectrum of our program. Our request of $21.3 million for fiscal year 1983 is designed to permit us to restore essential programs to the levels necessary to achieve our current priority objectives.

In the hazardous materials safety area, we are working to accomplish badly needed regulatory reforms in ways which enable us to continue to fulfill our statutory mandate to assure safety in the transport of hazardous materials.

In fiscal 1981, we established comprehensive new standards for siting, design, construction, operation, and maintenance of liquefied natural gas facilities and a uniform system following a United Nations code for the identification of hazardous materials in transportation.

During the same period, we eliminated 20 packaging specifications for hazardous materials that were determined to be unnecessary due to technological obsolescence and we terminated requirements for carriers to prepare written reports of transportation incidents involving certain low risk hazardous materials.

We are currently in the process of reviewing several other regulations for possible revocation. We anticipate that the regulatory changes that will follow from these reviews will result in substantial additional savings to the public without adversely affecting safety.

Our Office of Emergency Transportation, which bears responsibility for emergency transportation plans and operations, is now deeply involved in the work of the Emergency Mobilization Preparedness Board which the President established on December 17, 1981. Complementing the Board activities are our continuing programs to enhance our readiness with respect to a wide range of contingencies from national defense emergencies to natural disasters.

During the 1973 through 1981 period, our program of university research has funded over 300 studies at more than 100 universities. Since last year, we have reoriented the research topics to reflect more accurately the areas of highest priority to the Department. In addition, we have reconstituted the Departmental University Research Review Board reporting to the Deputy Secretary to include the top-level policy people within the Department. We have done this to insure that the research topics chosen for support continue to reflect the priorities of the departmental leadership.

The funding of new starts in the university program has had to be deferred as a result of the stringent budget situation in fiscal year 1982. However, the fiscal year 1982 proposals have been reviewed and the most meritorious proposals have been selected by the new board. The appropriation we are requesting for fiscal 1983 will enable us to fund these deferred new starts and also to continue support of those ongoing projects consistent with current priorities.

Our Transportation System Center provides the Department with a wide range of research support. As you are aware, Mr. Chairman, the center is funded not by direct appropriation but by a working capital fund constituted through interagency fund transfers from project sponsors. During the past year, the center's program had been somewhat reduced as a consequence of generally reduced budgets for our sponsors programs. Staffing levels at the center have been adjusted downward accordingly.

Nevertheless, the center's experienced management and multidisciplinary technical staff continue to make it a unique support resource responsive to the Department's priorities, objectives, and mission.

In summary, Mr. Chairman, I would like to reemphasize that in carrying out the mission of the Research and Special Programs

Administration, we are seeking ways to improve our effectiveness while reducing our operating costs. As we continue to implement our mandate in the months ahead, you may be assured that we will seek new and better ways to do our work in a cost-effective manner without retreating from those responsibilities which should be performed by the Federal Government.

This concludes my prepared remarks. I would be pleased to answer any questions.

PREPARED STATEMENT

Senator ANDREWS. Your statement will be inserted in the record at this point.

[The statement follows:]

STATEMENT OF HOWARD DUGOFF

Mr. Chairman, Members of the Committee, it is a pleasure to appear before you today to discuss the FY 1983 Budget request of the Research and Special Programs Administration (RSPA). In this statement, I will briefly review our mission and structure, highlight some of our major recent achievements, and discuss some policies and strategies for the future, with emphasis on our objectives for FY 1983.

RSPA ROLE AND STRUCTURE

RSPA is a conglomerate administration with a set of diverse missions whose unifying feature is that they are multimodal in character. These missions are:

- To protect against risks in the transportation of hazardous materials by issuing Federal safety regulations, enforcing regulations pertaining to pipeline or multiple transportation modes,* and administering Federal grants to aid State pipeline safety programs.
- To perform research and analysis in support of the operating elements of the Department.
- To conduct a program of basic and applied research to advance the state of knowledge in disciplines supporting transportation technology, to address high priority problems of long-term interest to the Department, and to focus the attention of the university community on transportation problems and issues.
- To develop plans and procedures for the effective management of civil transportation and continuity of Departmental operations in the event of national emergency or disaster.
- To design and conduct transportation safety training programs for government and industry personnel in response to requirements defined by the operating elements of the Department.

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* Enforcement of regulations pertaining to individual transportation modes other than pipeline is the responsibility of the respective modal administrations of DOT.

- To coordinate and provide technical support for Departmental policymaking related to radionavigation, transportation statistics and information, and major equipment or service procurements.

We maintain three line organizational elements to accomplish these missions. The Materials Transportation Bureau bears responsibility for the safety regulatory mission; the Transportation Systems Center is responsible for the research and analysis support mission; the emergency transportation, independent research, training and technical support missions are the responsibility of the Transportation Programs Bureau.

RSPA GOALS AND OBJECTIVES

At present, the major goal of RSPA is to complete the process of reshaping itself and its programs to support Administration policies directed towards restoring the vitality of the U.S. economy, assuring national security, and reducing the size and pervasiveness of the Federal government. To this end, we are pursuing the following major objectives:

- Eliminate unwarranted and unnecessarily burdensome regulations.
- Improve data base and methodology for regulatory cost/benefit analysis.
- Foster State assumption of appropriate regulatory enforcement responsibilities.
- Discontinue support of R&D that is within the capability or responsibility of the private sector.
- Improve DOT preparedness for national emergency mobilization.
- Develop user charge mechanisms for safety training, radionavigation, and transportation statistics and information.

PROGRAM STRATEGIES AND TRENDS

In accordance with the Administration's overall policy goals, we have been working diligently to reduce the scope of RSPA activities to the necessary minimum and, at the same time, improve their efficiency. In FY 1981, our appropriation was $31.4 million. Our FY 1982 budget request was $26.4 million. We received an FY 1982 appropriation of $17.4 million, a reduction of approximately 45 percent from the

FY 1981 appropriation, and approximately 34 percent less than our FY 1982 request. To accommodate this drastic reduction, we were obliged to curtail or defer planned activities across the entire spectrum of RSPA programs. Our request of $21.3 million for FY 1983 is designed to permit us to hold essential programs at the levels necessary to achieve our current priority objectives.

At this point, I would like to describe some of the major activities of RSPA in somewhat more detail. In so doing, I will seek to highlight recent achievements and indicate the direction of our future efforts.

HAZARDOUS MATERIALS TRANSPORTATION

We have been working diligently to accomplish needed regulatory reforms in ways which enable us to continue to fulfill our statutory mandate to assure safety in the transport of hazardous materials. In FY 1981, we established comprehensive new standards for siting, design, construction, operation, and maintenance of LNG facilities. At the same time, we eliminated 20 packaging specifications for hazardous materials that were determined to be unnecessary due to technological obsolescence, and terminated requirements for carriers to prepare written reports of transportation incidents involving certain low risk hazardous materials. We currently are in the process of reviewing several other regulations for possible revocation, including requirements for pipeline markers in navigable waterways, retention of radiographic records of pipeline weld tests, and monitoring of pipeline corrosion control devices. We anticipate that the regulatory changes that will follow from these ongoing reviews will result in substantial savings to the public without adversely affecting safety.

Among the accomplishments we reported to the subcommittee last year were the expansion of the capabilities of the National Response Center for dealing with hazardous materials emergencies, and the preparation and distribution of our Emergency Response Guidebook. We believe both of these accomplishments provide substantial assistance to government and industry personnel responding to hazardous materials emergencies. However, they do not address the widespread need for coordinated institutional planning for emergency response. To stimulate such activity, we initiated six emergency response demonstration projects in 1981. The participating organizations include state, county, regional and municipal governments located in areas with different geography, demographics, and levels of commercial activity. The results of these demonstrations will provide planning guides for communities all across the Nation.

In the months ahead, we will continue to seek ways to eliminate regulations that do not contribute to the public safety while strengthening our role safeguarding the security of persons and property. We will also be examining ways to transfer responsibilities to the states in areas that do not have an interstate or national character.

EMERGENCY TRANSPORTATION

The Office of Emergency Transportation, which is charged with carrying out the Secretary's responsibilities for emergency plans and operations, is now deeply involved in the work of the Emergency Mobilization Preparedness Board which the President established on December 17, 1981. The scope of the Board's efforts involves 12 major working groups which cut across the entire spectrum of emergency preparedness.

Complementing the Board activity are the continuing programs in the Office of Emergency Transportation to enhance the readiness posture of the Department to deal more effectively with a wide range of contingencies from national defense emergencies to natural disasters. Our most notable accomplishments in this endeavor include:

- Completion of 90 percent of an austere but serviceable emergency radio communications net linking national and regional emergency operating centers,
- Intensified orientation and exercise training of the Department's emergency organization, which includes both Federal employees and private sector volunteers of our DOT National Defense Reserve unit, and
- Improvement and updating of our emergency data base on critical transportation facilities, equipment and networks, and a computerized system for rapid assessment of transportation demand and capability.

We intend to continue a vigorous DOT preparedness program in support of the critical Administration goal of an enhanced national capacity to respond to emergencies.

RESEARCH AND TECHNICAL POLICY SUPPORT

During the 1973-81 period, our program of university research has funded over 300 studies at more than 100 universities. Since last year, we have reoriented the research topics to reflect more accurately the areas of highest priority to the Department. These include impacts of regulatory reform, maritime policy, international aviation, transportation industry structure, intermodal freight transportation, and advanced technology. In addition, we have reconstituted the Departmental University Research Review Board to include the top level policy people within the Department. We have done this to ensure that the research topics chosen for contracts continue to reflect the priorities of the Departmental leadership.

The funding of new starts in FY 1982 has had to be deferred. However, the FY 1982 proposals have been reviewed and the top proposals have been selected by the new Board. The appropriation we are requesting for FY 1983 will enable us to fund the deferred new starts and continue support of those ongoing projects consistent with current priorities.

Over the history of the program, there have been many significant benefits and some of these have been brought to your attention in our testimony of past years. For example, the Program played a major role in the Department's development of legislation leading to the Motor Carrier Act of 1980. Also in 1980, the Program sponsored university conferences in three cities to assist in developing policies for U.S. ports. More recently, the seed money for research has led to applications work by other organizations. For example, the Urban Mass Transportation Administration has continued work started under this Program on Flow Management and Control (University of Texas). The Office of the Secretary has continued work at Syracuse University on a study of the impact of the Motor Carrier Act regulatory reform on small communities. The FAA is applying the work done at the University of Pittsburgh on Software Reliability in the Enroute Air Traffic Control System. Finally, the Federal Highway Administration has used research results in several areas including the development of an integrated urban traffic control system.

We believe the University Program is an outstanding means to acquire the unique talents of academia to conduct research and to incorporate science and technology into the policy-making process of the Department.

Elsewhere, our technology program in the radionavigation area supports the Department in determining the most efficient and cost-effective future mix of Federally provided civil radionavigation systems, and assesses joint use of proposed future DOD navigation systems. Key ongoing programs include: the Federal Radionavigation Plan (FRP) Support, Radionavigation Economic Planning Model Program, NAVSTAR GPS Simulation and Analysis Program, and NAVSTAR GPS User Charge Study. The level of effort requested for FY 1983 is necessary to ensure that civil radionavigation needs will continue to be met and that an efficient and orderly transition of the new technology is accomplished.

RESEARCH AND ANALYSIS SUPPORT

The Transportation Systems Center (TSC) provides the Office of the Secretary and Operating Administrations with timely technology assessment, analyses, and essential data and information to assist in decisionmaking, policy formulation, resource allocations, and rulemaking that support fulfillment of the Department's statutory mission.

TSC's work and overall mission supports DOT priorities and objectives. The Operating Administrations call upon TSC for support of a large number of high priority projects. In 1982, for example, TSC is conducting safety related investigations and studies for several of the Operating Administrations, including NHTSA, FRA, FAA, and the United States Coast Guard. The operating responsibilities of the Coast Guard are supported by TSC projects involving command and control technology. Another priority area is that of transportation policy and resource allocation. TSC support to FHWA and UMTA in this area includes studies relating to user charges and the allocation of capital grants.

During the past year, TSC's program has been reduced as a consequence of reduced budgets for our project sponsor's programs. Staffing levels at TSC have been adjusted in keeping with reductions in funding and ceilings. Nevertheless, TSC's core capability, its experienced professional management, the multi-disciplinary nature of its experienced technical staff, and its flexibility in responding promptly to priority problems continue to make it a significant resource responsive to the Department's priorities, objectives and mission.

CONCLUSION

In summary, Mr. Chairman, I would like to emphasize that in carrying out RSPA's mission, we are always seeking ways to improve our effectiveness while reducing our operating costs. As we continue to implement our mandate in the months ahead, you may be assured that we will seek new and better ways to do our work in a cost-effective manner without retreating from those responsibilities which should be performed by the Federal government. This concludes my prepared remarks and I will be pleased to answer any questions you may have.

REORGANIZATION STUDY

Senator ANDREWS. Earlier this week before the House Transportation Appropriation Subcommittee you testified that as a result of this reorganization study, you thought RSPA would soon be dissolved. Is there a formal plan to eliminate RSPA as we know it today?

Mr. DUGOFF. Not as yet, Mr. Chairman.

Senator ANDREWS. If it turns out that it is eliminated, what will happen to each of the major functions currently administered by RSPA?

Mr. DUGOFF. Each of the major functions will be continued and will be reassigned to other elements of the Department. The precise alinement has not yet been established.

Senator ANDREWS. What kind of savings are you looking for from this reorganization?

Mr. DUGOFF. We would anticipate that the reorganization will permit us, without compromising the integrity of our program, to effect staff reductions on the order of between 75 and 100 spaces.

Senator ANDREWS. One of the speculated outcomes of this reorganization that particularly bothers me is a recommendation, as I understand it, to reduce the personnel level in your Materials

Transportation Bureau, which is responsible for hazardous materials transportation and pipeline safety, by 21 percent from 116 to 88 end-of-year personnel positions. Have you or the Secretary approved this proposal?

Mr. DUGOFF. I don't think it is accurate to say we have approved a proposal with that specific and exact condition.

Senator ANDREWS. What have you done?

Mr. DUGOFF. The Secretary has approved, in principle a reduction which generally corresponds to a cut of the proportion you indicated.

Senator ANDREWS. In other words, he has given you a blank check to reorganize the way you want to instead of approving a specific number?

Mr. DUGOFF. He has examined a very detailed study of each of the functional responsibilities.

Senator ANDREWS. It isn't very detailed if you don't have specific numbers that you are going to cut.

Mr. DUGOFF. We have a very substantial degree of specificity. We have examined each one of the functions——

Senator ANDREWS. You just told me you weren't specific. You said that it was a very generalized approval that you got.

Mr. DUGOFF. I fear I have not been precise enough in my characterization.

PERSONNEL CUTBACKS

Senator ANDREWS. Has the Secretary approved a precise number of personnel cutback in the hazardous materials transportation?

Mr. DUGOFF. The Secretary has authorized us to proceed to develop the details of a reduction as you described it, given the exact functions to be curtailed and given our best current estimates of the numbers of individual jobs which we believe can be eliminated without compromising the integrity of the program. And the numbers which you read, I believe, correspond to the best estimates which the Secretary has seen and approved.

Senator ANDREWS. In other words, the answer is, "Yes," the Secretary has approved a 21-percent cut in personnel in pipeline safety and the Hazardous Materials Transportation Bureau.

Mr. DUGOFF. He has approved such a reduction.

Senator ANDREWS. I was just trying to get it on the record. If so, what will be the impact of this reduction on pipeline safety and the safety of the transportation of hazardous materials?

Mr. DUGOFF. We do not believe that the reductions planned will have any discernible adverse impact on the safety of pipeline transportation or hazardous materials transportation.

Senator ANDREWS. Who have you got in that Bureau; such a group of drones that if you cut them by 20 percent there is no impact on what they are doing?

Mr. DUGOFF. The functions performed by the individuals whose positions will be eliminated can be performed more efficiently either by the reorganization of internal staff or by the employment of outside, private sector resources.

PIPELINE SAFETY STATE PROGRAMS

Senator ANDREWS. Can you provide for the record the specific job designations for these people that are being eliminated and give us a little bit more specificity so that we will know the full impact of your planned reductions? And let me point out that pipeline safety experts are fearful that, with the current economic downturn, pipeline companies will increasingly defer their expenditures for maintenance.

Now, is it wise to provide the States less money for the inspection and enforcement of pipeline safety standards, at the very time when enforcement is most critical?

Mr. DUGOFF. Mr. Chairman, our reorganization plans are predicated on a redefinition of the role of the Federal monitoring staff. It should be emphasized that the lion's share of pipeline safety enforcement is currently performed by State inspectors. We have no plans to reduce the level of budgetary support that we provide to help assist the State programs. We believe we can effect some reduction in the Federal manpower expended in the auditing of State programs.

For example, currently we visit each State program office twice annually to audit their books. We believe that the State programs, having operated now over approximately a 10-year period, have reached a state of development and maturity where it is feasible and sensible for us to make such visitations once annually instead of twice.

Indeed, we believe that the effect of this change will be to free up State personnel so that they can do more inspection work rather than working with the Federal auditors going over the books. We have no intention of reducing the manpower at the State office level dedicated to enforcement, nor do we intend to reduce the effort which we currently expend in connection with interstate pipeline operations.

Senator ANDREWS. But you just said that you are going to run this pipeline safety program more effectively by cutting your supervision in half. Now, I am not much of a mathematician, I am just a farmer, but 2 and 2 has to come up equaling 4. And the information that we have received in recent weeks was that because of financial constraints, many States may drop out of this program.

You candidly feel that your 1983 request of $2.5 million will serve as an adequate incentive for States to continue enforcing these Federal pipeline safety regulations despite the 50-percent cut in visitations and supervision by you?

Mr. DUGOFF. We do believe it will, Mr. Chairman. We are extremely concerned that States continue to participate in this partnership arrangement.

Senator ANDREWS. How many States have indicated to you that they are thinking of dropping out?

Mr. DUGOFF. We have had very little indication of that.

Senator ANDREWS. Please quantify what "very little" is?

Mr. DUGOFF. We have had informal expressions to that effect from two States. Nothing beyond that yet. But I can assure you we are extremely concerned about it. When the amount of our grant funds available for fiscal 1982 was reduced from $3.1 to $2.4 million at the time of the continuing resolution and subsequently incorporated in our fiscal 1982 budget, we were extremely concerned that the reduction might have the effect that you have expressed concern about. It has not so far.

Senator ANDREWS. The subcommittee has heard about four States; they are major States that these principal pipelines move through. These States are not ones that just have branch lines in them; they are ones that are in the hub of the biggest gas moving pipelines in the Nation. We need to monitor this closely.

Mr. DUGOFF. I am not aware of that, Mr. Chairman. I would like to follow up with the staff and find out more about it, if I might.

RULE ON RADIOACTIVE WASTE

Senator ANDREWS. You may have every opportunity to respond in more detail for the record. Also, many local officials are concerned that RSPA's rule on the routing of radioactive waste materials over interstate highways, rule HM-164, is just the foreshadowing of similar preemption rules on the transport of other hazardous material.

What is your position with regard to this concern?

Mr. DUGOFF. We have no plans for followup rules of that character. In general, our policy is to conform to the letter and spirit of the legislation under which we operate which holds that any State or local ordinance which is inconsistent with a regulation promulgated pursuant to the act is preempted.

We don't have explicit preemptive authority. A preemption determination is made judicially and it is made in accordance with the provisions of the act.

Senator ANDREWS. What is the status of the regulation? I understand it was scheduled to go into effect on February 1?

Mr. DUGOFF. The regulation became effective on February 1, but in late February a legal finding affecting the ruling occurred. The Southern District Court of New York found the regulation to be invalid insofar as it applies to transportation of spent fuels and other high level radioactive materials in densely populated areas with non-Federal bans on such transportation.

We know that this finding of invalidity includes New York City which has such a ban. It is not precisely clear to us yet—our lawyers are working on it—exactly how far beyond New York City the effect of the judge's order extends.

TRAINING OF EMERGENCY PERSONNEL

Senator ANDREWS. The concern of the subcommittee is that if this rule is allowed to be fully implemented, local personnel may not be adequately prepared and trained to respond to an accident involving nuclear waste.

Mr. DUGOFF. In my view, the answer is dependent upon the locality we are talking about.

Senator ANDREWS. The answer ought to be a "Yes" or "No."

Mr. DUGOFF. The state of readiness of emergency response personnel varies dramatically over the Nation. We have been working with local governments to attempt to improve readiness for dealing with hazardous materials emergency response generally.

We have conducted large numbers of training courses for such State personnel. We have developed extensive training materials, including an emergency response guide book which we have distributed to 500,000 emergency response personnel, and we maintain a 24-hour on-line emergency response center to provide advice and guidance to local responders.

In addition, in 1981 we funded a set of six demonstration projects with jurisdictions ranging in size from cities through States to help them analyze their hazardous material problems and develop emergency response plans. This year we intend to compile the findings of those projects into a guide presentation for use by emergency response staffs throughout the Nation.

In addition, we are working with the Federal Emergency Management Agency—FEMA, to assist them in providing training for response to hazardous materials emergencies. In particular, in connection with radiological emergencies, there is an Executive order which calls for States to develop radiological emergency response plans, and we work with the States in developing these plans. It is a major item for concern and we continue to work at it.

Senator ANDREWS. It is delightful to hear that you have done all this, but the concern still exists because you didn't give an answer to the simple question that, do you feel local personnel are adequately prepared and trained to respond to an accident involving nuclear waste? Do you think they are or not?

Mr. DUGOFF. I believe that in general they are prepared to respond to an accident short of a catastophic event.

Senator ANDREWS. Provide for the record some of the specific remarks about why you feel they are properly prepared in trying to respond to such an accident. Also, does RSPA or any other Federal agency have the response capability if such an accident were to occur?

Mr. DUGOFF. Not RSPA. FEMA has that responsibility and has that capability. The Nuclear Regulatory Commission also has substantial capability to assist.

[The information follows:]

EMERGENCY RESPONSE

The Department of Energy is the Federal agency which is responsible for providing an emergency response team in the event of a radiological emergency. There are eight regional radiological assistance teams established throughout the country to assist the population. On the State level, all States have radiation monitoring teams which serve under the direction of the State health departments' radiological health officers. While both the Department of Transportation and the Federal Emergency Management Agency are involved in emergency response planning and coordination, neither agency has trained response teams who are equipped to handle major radiological accidents.

However, DOT has been distributing training materials to emergency response organizations for more than 10 years and the requests for this material increase annually. This indicates a continuing need to train new emergency personnel and upgrade the training of experienced staff. Our most extensive outreach effort has been the development and distribution of the Hazardous Material Emergency Response Guidebook—ERG. To date, we have printed 725,000 copies of the guidebook and more than 515,000 copies have been distributed to fire departments, police departments, rescue squads, civil defense units, and other emergency services organizations.

Based on the success of the emergency response guide, MTB recently developed a document entitled "Radioactive Materials Transportation Information and Incident Guidance." This document was designed to provide background and guidance for first-on-the-scene responders at transportation accidents involving radioactive materials.

SUBMITTED QUESTIONS

Senator ANDREWS. Thank you very much. We appreciate your testimony. We have some questions for the record as well as some questions from the other members of the subcommittee that will be submitted to you to be answered for the record.

[The following questions were not asked at the hearing but were submitted for response for the record:]

Questions Submitted by Senator Andrews

REGIONAL TRAINING CENTERS

Senator Andrews: Last year, your 1982 budget request included funds for the creation of several Regional Training Centers for classes on how to appropriately respond to accidents involving hazardous materials or nuclear wastes. No additional funds have been requested in 1983, although it is my understanding that RSPA's involvement in these projects was to be for three years. What is the status of this program?

Response: Although funds were committed during FY 1981 for the purpose of establishing Regional Training Centers, no funds were obligated, nor were any requested for any subsequent budget year. Upon reconsideration of the program concept, we concluded that it was not an appropriate Federal expenditure to help subsidize the start-up of such centers.

R&D MANAGEMENT

Senator Andrews: Moving to your research and development programs, you will recall that in last year's Senate Report, we expressed a concern that RSPA's R&D work be better managed. In particular, we stated the need for clearly defined goals and objectives so that individual projects can better be evaluated. What actions have you taken to improve upon this problem area?

Response: In response to your concerns of last year, we have made a concentrated effort to improve the planning and management of our programs, especially in the R&D area. Besides realigning our programs to be consistent with the President's policies, we have established formal processes for strategic planning, program development, and program review and evaluation. This activity has improved our decision making and management control capabilities and has provided us with such management systems and devices as strategic guidelines, multi-year program plans, periodic program reviews and evaluations, and a responsive regulatory analysis and review system.

It is through these processes, which assure that R&D goals and objectives are specified annually, that a coherent R&D policy for RSPA is developed, with checks and balances provided through a regular program of review and evaluation.

HAZARDOUS MATERIALS COORDINATION

Senator Andrews: A recent report by the National Transportation Safety Board on the Status of Department of Transportation's Hazardous Materials Regulatory Program recommended that there be a single DOT agency with the responsibility for planning and administering an integrated effective Department-wide Hazardous Materials Transportation Safety Program. Do you agree with this recommendation? What would be the advantages and disadvantages of such a consolidation?

Response: Almost ten years ago the General Accounting Office issued a report criticizing DOT for failing to establish a centralized hazardous materials program. At that time (1973), DOT was six years old and was the first Federal department to be assigned total authority for hazardous materials transportation safety after almost a century of Federal involvement. The hazardous materials program was administered under the terms of the Department of Transportation Act which specifically precluded the Secretary from directly administering any of the Department's safety regulatory programs (except marine safety). Instead, such authority was vested directly in the several Administrators. In order to maintain some policy control over the Administrators, the Secretary was forced to create and staff an elaborate internal review system. Thus, the situation which the GAO criticized was one that had been legislatively mandated.

This unsatisfactory arrangement was finally eliminated in 1975 when the Hazardous Materials Transportation Act (HMTA) granted the Secretary full control of the Department's hazardous materials program with authority to set Department-wide regulations without going through the modal Administrators. In July 1975, exercising the new authority granted by the HMTA and existing authority under the Natural Gas Pipeline Safety Act of 1968, Secretary Coleman created the Materials Transportation Bureau (MTB).

The creation of MTB brought about the most complete centralization of hazardous materials transportation safety regulatory activities in the Nation's history. MTB was given exclusive responsibility for:

- Development and issuance of safety regulations governing the transportation of hazardous materials by all modes, except bulk-by-water.
- Representation of the U.S. at meetings of international standards-setting bodies concerned with transportation of hazardous materials.
- Development of training programs for government and industry personnel involved in hazardous materials transportation.
- Collection, analysis and dissemination of information concerning hazardous materials transportation.

The only function which was not assigned exclusively to MTB was enforcement because consolidation of this activity was simply not efficient. The modal administrations all had enforcement programs which would have continued regardless of who exercised enforcement jurisdiction over the hazardous materials transportation safety regulations. Therefore, rather than duplicating the enforcement capabilities of the modes and thereby subjecting the transportation industry to yet another body of Federal inspectors, the Secretary delegated enforcement authority to each of the modal administrations for those hazardous materials transportation safety regulations affecting the respective modes. MTB was delegated enforcement authority for those regulations governing pipeline safety and intermodal transportation (e.g., container manufacturing standards). This decentralized approach to enforcement also recognized the inherent public safety role to be played by existing state and local enforcement agencies. With a uniform body of safety standards, compliance could be ensured by properly trained enforcement groups at any level of government.

Thus, the only element of the Department's hazardous materials transportation safety program which has not been consolidated under a single organizational element is enforcement.

Nevertheless, in 1981 the NTSB issued a report which concluded that the organization of the program was insufficient to ensure that long-range planning, establishment of Department-wide objectives and effective use of limited resources. We feel that the facts do not support this conclusion.

All hazardous materials program functions except enforcement are centralized in MTB with a single planning, budgeting and management process. Enforcement, while budgeted and managed along modal lines, is planned through extensive Departmental coordination. For over a decade the Department has held monthly Intermodal Hazardous Materials Meetings concerning matters affecting hazardous materials regulation. Recently, the increase in the Department's hazardous materials inspection and enforcement activities prompted MTB to establish a separate monthly intermodal meeting on enforcement issues alone. Items covered at these meetings include: recent interpretations affecting enforcement of the regulations; coordination of inspections by each administration to prevent duplication of effort; and problems arising from specific cases, court decisions, etc., that could affect future actions.

In conclusion, the Department has organized the hazardous materials transportation safety program in a manner which enables it to achieve maximum consolidation of program control consistent with efficient resource utilization in achieving its dual objectives of: (1) minimizing the public safety risk inherent in the transportation of hazardous materials by all modes, and (2) reducing the regulatory burden on commerce to the maximum extent consistent with public safety.

Senator Andrews: Please discuss your coordination activities with the other modal administrations having responsibilities in hazardous materials transportation. What procedures do you use when [illegible] with other executive and regulatory agencies?

Response: In addition to the previously described monthly intermoval hazardous materials meetings, MTB coordinates its regulatory activities along subject matter lines with those Federal, State and industry organizations involved in various aspects of hazardous materials safety. The extent of this involvement is indicated by the following partial listing of those Federal agencies which reference the DOT hazardous materials regulations:

Occupational Safety and Health Administration
29 CFR Part 1910 Subpart L

U.S. Department of Health and Human Services
45 CFR (Registry of Toxic Effects of Chemical Substances)

Mine Enforcement and Safety Administration
30 CFR 55, 56 and 57.2

Bureau of Alcohol, Tobacco and Firearms
27 CFR 55.141(a)(7) and (a)(9) 55-182(b)

Department of Defense, Defense Logistics Agency

Environmental Protection Agency
40 CFR - Hazardous Waste
Transportation Interface 49 CFR 176.42(c)(6), Part 265

U.S. Postal Service
39 CFR Domestic Mail Manual Section 124.125

Nuclear Regulatory Commission
10 CFR 71.5

Department of Energy
10 CFR Part 71, DOE Order 5480.1, Chapter 3
Reference: 49 CFR 100-189, 46 CFR Part 146

National Aeronautics and Space Administration - 14 CFR

U.S. Customs Service - 19 CFR

HHS/National Institutes of Health - Guidelines for Research Involving Recombinant DNA Molecules

HHS/PHS/Centers for Disease Control - 42 CFR Part 72, Interstate Shipment of Etiologic Agents

General Services Administration

Senator Andrews: What is the status of your proposed joint DOT-EPA rule to establish a standard shipping form for transporting hazardous materials throughout the country? What effect would this rule have on shippers and carriers of hazardous materials?

Response: The Notice of Proposed Rulemaking establishing a standard shipping form for transporters of hazardous waste was published March 4, 1982.

At present, there is no standard form for transporting hazardous wastes, although EPA regulations require preparation of a manifest on which certain information must appear. As a consequence, numerous states have developed their own manifest forms, which meet Federal requirements, but require additional information as well. At least 21 states require use of specific manifest forms. This lack of uniformity of manifest usage has created a burden for shippers who must include a separate manifest with the shipment for each state it travels through. Failure to carry a particular manifest may delay or prevent shipments from reaching their destinations or subject the shipper to state enforcement action. A shipper thus may be required to complete several manifest forms with duplicative information in order to ensure that the waste shipment reaches the designated facility, an obviously costly and inefficient procedure. The proposed rule alleviates this industry burden by requiring use of a uniform hazardous waste manifest form and prohibiting states from imposing inconsistent information requirements on shippers.

Senator Andrews: The General Accounting Office, in a May 1979 report, stated that it was unable to find any attempt by DOT to solicit input from the states when proposing regulations governing radioactive materials transportation. What efforts are made to gain input from parties outside the Federal government when developing your hazardous materials regulations?

Response: States, industry groups, and members of the public are free to comment on proposed regulations during the public comment period following publication of a notice of proposed rulemaking in the Federal Register. Every effort is made to accommodate their concerns before publication of the final rule. During the public comment period for the RAM highway routing rulemaking, for example, many states requested that the Department publish a set of guidelines to assist the states in evaluating the safety of their highways. MTB developed and pilot tested the guidelines with the help of state officials from California and Oregon and published the final document in June 1981.

In addition to soliciting written comments from concerned governments, groups, and individuals, MTB often holds public hearings to solicit further comments and initiate a dialogue with those affected by proposed rules. Prior to publication of the final rule on radioactive materials routing, MTB held a series of public hearings around the country, so that representatives of state and local governments, industry spokesmen, and members of the public could air their views and be assured of a hearing.

REGULATORY ACTIONS

Senator Andrews: What major hazardous materials and pipeline safety actions have you taken in the past year? Provide for the record a complete list of all final rulemaking adopted last year.

Response: Following is a listing of final rules adopted in 1981:

Pipeline Safety

49 CFR Parts 191 and 192 - Amdt. 191-3 and 192-38

- Amends natural gas leak reporting requirements to change addressee for written reports and deleting requirements of section 192.17.

49 CFR Parts 192 and 195 - Amdt. 192-37 and 195-21

- Amends gas and liquid pipeline regulations to update references to industry prepared document.

49 CFR Part 195 - Amdt. 195-22

- Amends the liquid pipeline regulations to conform with and reflect its issuance under authority of the Hazardous Liquid Pipeline Safety Act of 1979.

49 CFR Part 195 - Amdt. 195-20B

- Revokes final rule requiring weekly monitoring of the water content of anhydrous ammonia transported by interstate pipeline.

Hazardous Materials

HM-22 - Matter Incorporated by Reference

- Amends hazardous materials regulations to update references to industry or quasi-regulatory agency prepared documents.

HM-126A - Hazard Identification and Emergency Response Capabilities

- Adoption of a numeric identification system for hazardous materials to improve capability of emergency response personnel.

HM-139 - Conversion of Exemptions

- Amends regulations to eliminate certain exemptions and make shipping alternatives available to the entire industry.

HM-145C - Hazardous Substances

- Addresses transportation of materials identified by EPA as hazardous substances.

HM-149C - Air Transportation of RAM

- Renews exception to permit carriage of limited quantity radioactive materials aboard passenger-carrying aircraft.

HM-163 - Bureau of Explosives Delegations of Authority

- Withdraws delegations of authority from the Bureau of Explosives.

HM-164 - Highway Routing of RAM

- Establish routing requirements for the transportation of radioactive materials by highway.

HM-166 - Regulations Terminations

- Deletes obsolete specifications, revises and clarifies other portions of the regulations.

HM-167 - Intermodal Portable Tanks

- Permits use of two new packaging specifications for intermodal portable tanks and sets forth requirements for maintenance and usage.

HM-171 - Use of UN Shipping Descriptions

- Authorizes optional use of United Nations shipping descriptions and identification numbers in place of existing descriptions for domestic transport.

HM-174 - DOT 105 Tank Cars

- Amends regulations to set safety performance standards for Specification 105 tank cars.

HM-176 - Aluminum Cylinders

- Develops specifications for alunimum cylinders.

Senator Andrews: NTSB's report on the hazardous materials transportation regulatory program concluded that DOT's primary means of regulation was the use of the exemption process to add product-specific requirements to the general body of hazardous materials regulations. What steps have you taken in the past year to update and simplify past regulations to make them less burdensome?

Response: Following are the actions taken by MTB in the past year to update and simplify the hazardous materials regulations to make then less burdensome:

- As a means of facilitating the international transportation of hazardous materials and to minimize the economic burden imposed on shippers by a multiplicity of requirements for package markings and shipping paper entries, use of the most current UN shipping descriptions is now authorized for import or export shipments transported by vessel.
- Specifications for a seamless, aluminum cylinder were finalized, thereby providing for greater acceptance of aluminum cylinders by shippers of compressed gases, and terminating seven exemptions which currently authorize use of over 3,000,000 such cylinders.
- MTB proposed termination of 29 exemptions and immediate adoption as regulations of general applicability six applications for exemptions. Docket HM-139 exists to convert the terms of exemptions into regulations in cases where an acceptable level of safety has been clearly demonstrated by the shipping history under the exemption.
- MTB established an open docket, HM-166, to terminate or modify regulations that are confusing, unnecessary, or duplicative and to terminate packaging specifications that are rarely used or obsolete. Rulemaking is targeted for every four months.

RESTATEMENT OF PIPELINE REGULATIONS

Senator Andrews: In last year's testimony before this Committee, you discussed the need to develop regulations that would better serve different sizes of pipeline companies. What is the status of this program? Are you encountering any major difficulties in accomplishing this task?

Response: RSPA's FY 1982 budget request included a certain amount to reorganize the gas pipeline safety standards according to pipeline size, type and function. Because the level of appropriated funding for the Pipeline Safety Program was substantially below the level requested, the project has had to be deferred until funding becomes available. Such funding has been included in the budget request for FY 1983.

RADIOACTIVE WASTE

Senator Andrews: It has been reported that MTB is considering the transfer of the authority to issue regulations relating to the transportation of radioactive materials to the Nuclear Regulatory Commission. Is this a valid report? If so, what is the status of this transfer?

Response: In attempting to define the most effective system for administering a radioactive materials (RAM) transportation safety regulatory program, the Department considered a number of alternatives, one of which was the complete transfer of RAM transportation regulatory functions to the Nuclear Regulatory Commission. Early on, however, it was recognized that this option ran counter to long-standing recommendations that improvement of the Hazardous Materials Program lay with greater consolidation of program management. For years the Materials Transportation Bureau and the Nuclear Regulatory Commission have carefully delineated their respective responsibilities and authority in a Memorandum of Understanding. This process has functioned extremely well and only minor changes are anticipated.

Senator Andrews: Would such a transfer affect existing regulations related to the transportation of radioactive materials?

Response: Yes. Were the Department to effect such a transfer of function, it would be required to cancel all DOT regulations governing radioactive materials transportation.

ALASKA NATURAL GAS PIPELINE PROJECT

Senator Andrews: What is MTB's involvement in the Alaska Natural Gas Pipeline Project?

Response: By Executive Order 12142 (June 21, 1979), the President established the Office of the Federal Inspector for construction of the Alaska Natural Gas Transportation System (ANGTS) and required each Federal agency having statutory responsibility over any aspect of the ANGTS to appoint an Agency Authorized Officer (AAO) to represent that authority on all matters pertaining to preconstruction, construction, and initial operation of the system. An MTB staff member, the Director of the Alaska Natural Gas Pipeline Project Office, is the Department of Transportation's AAO, detailed to and located within the Office of the Federal Inspector, and delegated the authority to enforce the terms, conditions, and stipulations of each permit issued by the agency. Through the AAO, MTB's role with regard to the ANGTS is to analyze design and construction changes and analyze requests for waiver from the Federal standards so as to facilitate completion of construction on schedule, safely, and with minimal damage to the environment.

MTB STAFFING

Senator Andrews: Over the past five years, Congress has responded favorably to your requests for staffing increases in the Materials Transportation Bureau to carry out hazardous materials transportation and pipeline safety functions. Yet, end-of-year manpower levels in MTB show that these additional positions have gone largely unfilled. Can you explain why these positions have not been filled?

Response: There are several factors that have limited our capability to bring the MTB up to full authorized strength. Most of the increases planned were for professionals with only limited numbers of clerical support personnel included. The extremely keen competition by industry for professionals in these fields has been a major problem. The Government simply cannot offer the equivalent starting salaries in many cases. Also, under both the previous and the present Administrations, extended hiring freezes were imposed. Long lead time in receiving OPM certification of candidates as qualified often resulted in potential employees getting better offers not to leave their industry position. Normal attrition, or turnover, has contributed but has not been a major factor. Finally, the long period of uncertainty as to the future of the RSPA has, no doubt, discouraged applicants, but this cannot be quantified. All these factors taken together have made it difficult to achieve a net gain in MTB strength. When our presently planned reorganization is completed, we anticipate that MTB will be fully staffed.

EMERGENCY PREPAREDNESS

Senator Andrews: Given the fact that the Federal Emergency Management Administration is the lead agency in the Federal Government for emergency preparedness, there seems to be an overly strong emphasis on RSPA's Office of Emergency Transportation. What are the primary functions of this Office? What would be the impact on transportation emergency preparedness if DOT's role were reduced to simply monitor FEMA's actions to ensure adequate concern for this area?

Response: The Director of the Federal Emergency Management Agency (FEMA) by virtue of the provisions of E.O. 12148 of July 20, 1979 is responsible for establishing "Federal policies for, and coordinate, all civil defense and civil emergency planning management, mitigation, and assistance functions of executive agencies." Additionally, "the Director shall periodically review and evaluate civil defense and civil emergency functions of the executive agencies." This gives FEMA the role of policy coordination, review and evaluation, but leaves to each Department the responsibility for development and implementation of its own emergency preparedness program.

The Department of Transportation Act charged the Secretary with exercising "leadership under the direction of the President, in transportation matters, including those affecting the national defense and those involving national or regional emergencies." Executive Order 11490, as amended, directly charges the Secretary with the responsibility of assuring the continuity of government as it pertains to his Department in any national emergency type situation and in periods of tension and crisis. This specified responsibility for the "preparation and promulgation of overall national policies, plans and procedures related to providing civil transportation of all forms — air, ground, water, and pipelines, including public storage and warehousing." By implication, the Executive Order requires the Secretary, upon appropriate direction, to be prepared to put into effect the preparedness plans, procedures, policies and programs.

The Office of Emergency Transportation is the staff element of the Secretary charged with carrying out his emergency preparedness responsibilities. The Office has developed a series of continuity of government and civil transportation resource management Departmental orders intended to assure the Department's viability and the proper and timely response of the nation's transportation resource to the needs of any situation in periods of tension and crisis. The Office sponsors and trains a 450-man National Defense Executive Reserve to insure a source of expertise to man the Department's Emergency Organization in a defense crisis; through its resource management family of procedural documents it provides guidance to members of the Federal transportation community, both external and internal to the Department, whose own preparedness plans are in part dependent on such guidance. Currently, the Office is deeply involved in participating in eight of the twelve working groups of the Presidentially created Emergency Mobilization Preparedness Board, the scope of which cuts across the entire spectrum of emergency preparedness.

Assuming FEMA had the transportation expertise to carry out the stated responsibilities of the Secretary and "DOT's role in emergency preparedness were reduced to simply monitor FEMA's actions," the Secretary would be unable to carry out his legislative and administrative mandated leadership role, and emergency preparedness planning within the Federal transportation community would rapidly deteriorate. Further, not only would administrative relief action be required, but also legislation would be necessary to relieve the Secretary of his charge under the Transportation Act, and, as head of a department under Title 5 USC, Section 301, to manage his Department in an effective and responsive manner.

TRANSPORTATION SAFETY INSTITUTE

Senator Andrews: It has been reported that because of budget cuts, the Transportation Safety Institute in Oklahoma City will be closed. Is this report accurate? If so, will the functions currently performed by TSI be terminated as well? Are there any proven alternatives for emergency response personnel to receive training on accidents involving the transportation of hazardous materials?

Response: We expect to continue the Transportation Safety Institute at approximately the same level as during the past two years. Many courses will be revised and new ones developed to reflect the many changes that have been and soon will be occasioned by in-process political, law and regulatory change. Consideration will be given to new and more efficient methods for fulfilling needed training requirements. Efforts to extend, expand and maintain TSI training will incorporate consideration of methods to take the instruction to the people at minimum cost to the modal administrations who are sponsoring the training.

INTERNATIONAL NEGOTIATIONS

Senator Andrews: What is RSPA's role in negotiating international agreements on hazardous materials transportation. Has this been at all affected by your reduced budget?

Response: To develop a unified, consistent approach to the safe transportation of hazardous materials, RSPA coordinates its programs at an international level with governmental and non-governmental bodies. The United States' position has been to promote a worldwide system that provides necessary consistency between modal and regional recommendations to ensure that, insofar as is practical, hazardous materials shipments may move freely and safely between the various modes and regions of the world. RSPA personnel contribute to the work of five international organizations--the United Nations Committee of Experts on the Transport of Dangerous Goods, the Intergovernmental Maritime Consultative Organization, the International Civil Aviation Organization, the European Economic Community Group of Experts on the Transport of Dangerous Goods, and the International Atomic Energy Agency. Continued participation by RSPA is essential because the impact of the recommendations and regulations issued by these organizations is felt directly by domestic industries involved in the international sale and distribution of hazardous materials. Active involvement will ensure that the requirements developed by these bodies promote safety, but do not hinder the free movement of hazardous materials by creating non-tariff trade barriers.

Thus far, this activity has not been adversely affected by RSPA's reduced budget.

NATURAL GAS PIPELINE GRANTS-IN-AID PROGRAM

Senator Andrews: In 1982, the average rate of reimbursement to states for enforcement of the rules established under the NGPSA was less than 25%, half of what is allowed by law. Has there been a diminished level of enforcement of these pipeline safety rules by state inspectors because of this reduced funding?

Response: Because the states are funded and performance statistics are calculated over the calendar year, it is too soon to know what the effect of reduced Federal funding will be on state enforcement efforts in 1982.

Senator Andrews: What will be the estimated average rate of reimbursement if your 1983 budget request is approved?

Response: We anticipate that the rate of reimbursement for 1983 will be from 17 to 25 percent of a state's total pipeline safety expenditures.

HAZARDOUS LIQUID PIPELINE SAFETY

Senator Andrews: Why have you traditionally requested no funds for the grant-in-aid program for the enforcement of hazardous liquid pipeline safety standards?

Response: MTB is still in the process of determining the extent of state interest in participating in a Federal/state program for liquid pipeline safety and is determining the scope of Federal regulatory coverage over intrastate lines. MTB is withholding application of Part 195 to intrastate lines for a two-year period to allow states that already have liquid pipeline safety programs to modify them for consistency with the Federal standards, and to allow states without such programs to decide whether to develop them. It would be premature to request funding for a program that is at least two years from implementation.

BASIC RESEARCH AND DEVELOPMENT

Senator Andrews: What do you see as the proper role in the department, and in RSPA in particular, for advanced and basic research with the long-term pay-off potential that is common to both programs?

Response: Research and development programs in the Department of Transportation must first be clearly supportive of the DOT mission which provides for the development of "policies and programs conducive to safe, efficient and convenient transportation at the lowest cost." Under this charter, the Department has broad options in research which are shaped by the goals, budget and program priorities of the current Administration. In this respect, the R&D program must reflect the current need for fiscal restraint and the encouragement of private investment. There remains however, a strong and vital role for advanced and basic research in the Department.

RSPA has responsibility on behalf of the Department for advanced research which is not mode specific but which would benefit more than one mode. Advanced research in the technologies common to all transportation such as communication, automation, construction materials, structures, etc. will both reduce the cost of public investments in transportation and stimulate additional innovation on the part of industry in the common goal of providing economical, efficient and safe transportation.

Of particular importance is our University Research Program. It is a Department-wide program so all of the projects are applicable to the Department's missions and operations. For example, during the past year the Wisconsin University study on research utilization was used by the Office of the Secretary to improve dissemination of research results. UMTA is making extensive use of the Texas University project on large scale network solution procedures. FAA is implementing techniques introduced in the Pittsburgh University contract on software reliability in air traffic control systems. FRA is interested in the maintenance methods discussed in the Virginia Polytechnic Institute study on interaction and load transfer through track-guideway systems. RSPA is monitoring the contract and plans to use the results of the Texas A&M University work on heat-fused thermoplastic pipeline joints. The Transportation Systems Center is using the findings of a project at Purdue University to develop a general method to evaluate the service life of bridge structures. The Department is using the work at Princeton University in an exchange of research data with the Japanese National Railway and at M.I.T. in an exchange of research data with the West German M.A.N. company. A port study at California State University at Long Beach is helping the Maritime Administration understand the barriers and bottlenecks to U.S. exports. FHWA is interested in the New York Polytechnic Institute study on decentralized control of street traffic.

The University Research Program employs several techniques to insure an acceptable product from each contract. First, the Program conducts a comprehensive research needs determination each year with final research topic selection by the Deputy Secretary. In essence this assures that there are clients for the research products even before the solicitation for proposals. Second, during the proposal evaluation the reviewers have to answer the questions "Will a useful product be produced in each phase of the study?" and "Is the probability of achieving successful results high?" Third, the research is accomplished by faculty and students under contracts which have specific outputs and well defined products. Fourth, the projects are carefully monitored by DOT professionals who have been selected on the basis of their expertise and suitability for applying the research results. And finally, it is planned that final reports will undergo peer review in the university community to guarantee quality and value.

OBJECTIVES OF UNIVERSITY RESEARCH

Sen. Andrews: What are your objectives with the University Research Program? To what extent in the past years have the results of these projects provided information or data applicable to the Department operations?

Response: The objectives of the Program of University Research are:

o To conduct high-quality, innovative university research on a few high priority problems of long term interest to the Department of Transportation.

o To conduct university research which will provide a meaningful contribution to the development of national transportation policy.

The results of the university research projects have been very valuable to the Department's operations. A list of examples is included below.

o Bowling Green State University - This ongoing study is improving the Department's understanding of the importance of State economic regulation on the provision of small community service. As Federal regulation is eased, State regulatory systems become increasingly important.

- University of California at Los Angeles - An investigation into rail inspection techniques is being used by FRA and AMTRAK and is expected to reduce significantly the number of derailments per year.

- Dartmouth Colleges - A study on performance standards and fare policies for urban transit systems is under review by UMTA for possible incorporation into the Operations Planning System.

- Johns Hopkins University - A study of linkages between port facilities and urban economic development has contributed to the Department's review of user fees.

- Kansas State University - A project on hazardous materials transportation emergencies is yielding a user's manual which can be distributed to small communities who look to DOT for help in emergency planning.

- Lehigh University - A three-year effort on fracture analysis of pipelines is being used by the Department to establish a more realistic and consistent code for pipeline welds. A code of this type could have saved millions of dollars during the construction of the Trans-Alaskan Crude Oil Pipeline.

- University of Massachusetts at Amherst - This research on assessing local deficit and social service agency user charges for rural public transportation has been extremely successful in tests in several states and will be used to help determine whether projects under the FHWA Rural Public Transportation Demonstration Program should continue on a permanent basis.

- Massachusetts Institute of Technology - This study of quality standards for highway maintenace will provide FHWA with one basis for addressing the issues associated with the resurfacing program for the Interstate Highway System.

- Massachusetts Institute of Technology - Research into improved suspension for passenger rail vehicles has been field tested on AMTRAK, and initial results show promise for improvements in ride quality, stability and curving.

- University of North Carolina - This study, dealing with the intercity bus industry, has been used to support the Department's ongoing efforts in the area of intercity bus regulatory reform. Background on this study was included in briefing books for Secretary Lewis for use in his appearances before Congressional Committees concerned with this issue, e.g., the Senate Subcommittee on Surface Transportation on March 8, 1982.

- North Carolina A&T State University - This research is a comprehensive study on small town trucking service. Preliminary findings were made available to the Senate Committee on Commerce, Science and Transportation and the House Committee on Public Works and Transportation. Final study results were described in DOT's initial filing before the ICC in 1981 in Ex. Parte No. MC-77.

- University of North Florida - This ongoing research is investigating the experiences of minority firms in the motor carrier industry and the impacts of Federal regulation on these firms. As the Motor Carrier Act of 1980 requires the ICC to promote minority participation in the industry, it is expected that the results of this study will be used in Congressional oversight hearings on the impacts of the Act.

- Pennsylvania State University - This study of paving grade asphalts has been useful to FHWA in upgrading problem asphalts both by changes in specifications and changes in construction practices.

- University of Pittsburgh - Research on software for Air Traffic Control Systems is planned for use by FAA to increase the software reliability in daily operations of enroute ATC systems.

- Purdue University - Research into residual service life of bridge structures has produced a diagnostic approach which is being used by the Department in the development of a general method to evaluate bridge quality.

- Syracuse University - This research addresses and important issue in the motor carrier regulatory reform debate, that of the impact of reform on trucking service to small communities. Preliminary results of this study were used in the Department's June 1981 testimony before both Houses of Congress at oversight hearings on the effects of the Motor Carrier Act of 1980. The results were also highlighted in the Department's brief filed in the Interstate Commerce Commission proceeding Ex. Parte No. MC-77 (Sub-3), Elimination of Certificates as the Measure of "Holding Out". Results of the first year's work are expected to be presented next month to the Motor Carrier Ratemaking Study Commission, at the Commission's request, as well as to Congress during the 1982 oversight hearings on the Act.

- Texas A&M University - An analysis of liquid sloshing in rigid containers has given the Department a better understanding of the fluid dynamics of liquid behavior inside rail tank cars, tank trucks and tank ships. Various baffle configurations introduced by the study are expected to help reduce derailments, accidents and tank damage.
- Texas A&M University - This research will assess the initial impacts of the Motor Carrier Act of 1980 on various aspects of the performance of the motor carrier industry. It is expected that these research results will be used in DOT testimony at Congressional oversight hearings on the Act.
- University of Texas at Austin - A study on transportation flow management and control has resulted in improved algorithms which have been incorporated into the UMTA Software Library for distribution to state and local governments.
- Virginia Polytechnic Institute - Research into the interaction and load transfer through track-guidway systems has allowed FRA and UMTA to improve analysis of new track structure and maintenance evaluations of old tracks.
- University of Washington - Research into the interrelationships among land use, energy, and transportation is being used by UMTA to help plan transit networks and by FHWA to help plan highway sytems.
- Washington State University - A study of parallel processing for large-scale network optimization problems shows promise for use in Air Traffic Control because of superior real-time speed and excellent fault toleration. The Department of Defense has shown an interest in the results because of the superfast algorithms.
- Worcester Polytechnic Institute - Research into soil weakened by extremely cold weather has been used by FHWA and FAA to evaluate damage to highway and airfields pavements.

CURRENT UNIVERSITY RESEARCH PROJECTS

Sen Andrews: How many university research projects are currently under way? What are the funding levels of each?

Response: The ongoing projects in the University Research Program along with current funding levels are listed below.

UNIVERSITY	TITLE	CONTRACT NO.	FUNDING($)
Bowling Green State	"Utilization of ICC Operating Rights to Evaluate the Impact of ICC Regulation."	RC-82015	57,491
Bowling Green State	"Intrastate Motor Carriage and Federal Policy Towards Small Community Service"	80C-00006	63,500
Brown	"Multimodal Traffic Equilbrium Network Models and Algorithms"	80C-00007	48,000
Brown	"Community Development and Changing Travel Patterns"	80C-00008	52,291
California Inst. of Tech.	"Damage Assessment and Confinement in Offshore Pipelines"	80C-00010	77,342

UNIVERSITY	TITLE	CONTRACT NO.	FUNDING($)
California, Los Angeles	"Nondestructive Evaluation of Longitudinal Rail Force by Acoustic Emission Method"	80C-00009	110,000
California State, Long Beach	"Transportation-Related Critical Institutional Barriers and Bottlenecks to U.S.Exports: The Port Experience"	81C-00012	82,000
Clark College	"Assessing the Potential for Individual Energy Savings through Coordinated Transit Planning and Neighborhood Development"	80C-00011	48,000
Clark College	"Using Transportation Investment to Strengthen Minority Business Development"	81C-00013	51,928
Cornell	"Short-Range Operations Planning Models for Transit Systems"	80C-00012	68,596
Cornell	"Management of Railroad Car Distribution"	80C-00013	53,774
Dartmouth College	"A Unified Approach to Performance Standards and Fare Policies for Urban Transit Systems"	80C-00014	65,600
Denver	"Factors Affecting Hispanic Accessibility and Utilization of Public Transportation"	81C-00014	86,423
Florida State	"Household Travel Patterns and Expenditures: Links with Societal Structure"	81C-00015	56,406
Georgia Inst. of Tech.	"Fundamental Studies in Tribology"	80C-00015	99,817
Howard	"Travel Demands, Trip-Making, and Geographic Mobility and Their Relationsips to Family Structure"	OS-80005	83,000
Illinois at Urbana	"Testing and Implementation of a Traffic Management Model for Detail Traffic Analyses"	81C-00016	36,415
Indiana	"Commuter Airline Safety"	81C-00017	71,294
Johns Hopkins	"An Analysis of Transportation/ Land Use "Interactions"	RC-82005	60,000
Johns Hopkins	"Linkages Between Port Facilities and Urban Economic Development"	81C-00018	74,838
Kansas State	"A Community Model for Handling Hazardous Materials Transportation Emergencies"	RC-92013	48,741
Kentucky	"Tire/Roadway Interaction and Its Effects on Vehicle Safety Trade-offs"	80C-00016	68,300
Lehigh	"Fracture Analysis of Pipelines"	RC-82007	116,897
Lowell	"Reliability of Ultrasonic Weld Interrogation Methods"	RC-92014	60,519

UNIVERSITY	TITLE	CONTRACT NO.	FUNDING($)
Lowell	"Demand-Responsive Decentralized Urban Traffic Control"	RC-92015	59,918
Massachusetts	"Assessing Local Deficit and Social Service Agency User Charges for Rural Public Transportation"	RC-82028	61,418
Massachusetts	"A Management Information System for Rural Transit Services"	81-00019	96,911
Mass. Inst. of Tech.	"Development of Quality Standards and Impact Models for Highway Maintenance"	RC-92016	73,300
Mass. Inst. of Tech.	"Efficient Data Collection Schemes for Disaggregate Travel Demand Models"	80C-00017	32,000
Mass. Inst. of Tech.	"Application of Active and Passive Suspension Techniques to Improve High Speed Ground Vehicle Performance"	80C-00018	90,000
Mass. Inst. of Tech.	"Dynamic Performance Characteristics of New Configuration Pantograph-Caternary Systems"	81C-00020	98,019
Mass. Inst. of Tech.	"Development of a Methodology for Industry Analysis and Application to the Transportation Manufacturing Industries"	81C-00021	70,800
Michigan, Dearborn	"A Study of Diesel Spray Characteristics at High Injection Pressures"	80C-00021	54,125
Minnesota	"Development and Evaluation of Optimal Control Strategies for Large Scale Urban Transportation Networks"	RC-82008	67,000
Minnesota	"Analyzing the Impact of Transportation Policies on Rural Mobility and Economic Development"	RC-92019	63,398
Missouri, Columbia	"Optimum Power Conditioning and Motor Combination for Locomotive Traction"	81C-00035	63,312
Morgan State	"An Analysis of the Effect of Federal Transportation Subsidy Policies on Intercity Travel Behavior"	81C-00022	57,978
New York Poly. Inst.	"Decentralized Control of Street Traffic"	RC-92023	59,365
New York Poly. Inst.	"An Assessment of the Interstate Highway Trade-in Process"	80C-00022	44,992
New York Poly. Inst.	"Optimization of the Design of Electric Traction Motor for Railroads and Other Applications"	81C-00023	83,170
North Florida & Edward Waters College	"Minority Participation in the Regulated Motor Carrier Industry"	80C-00023	120,000

UNIVERSITY	TITLE	CONTRACT NO.	FUNDING($)
Northwestern	"Development of Hybrid Cost Functions from Engineering and Statistical Techniques: The Case of Rail"	OS-70061	66,000
Northwestern	"Effects of Tranpsortation on the Tax Base and Development of Cities"	RC-92028	75,965
Northwestern	"Identification of Conditions for Effective Transferability of Disaggregate Choice Models"	80C-00024	68,345
Notre Dame	"Soil Reinforcement in Soft Ground Tunneling"	81C-00024	94,586
Oakland	"Development of Shearography for Nondestructive Testing of Highway Structures"	81C-00025	79,208
Princeton	"Evaluation of Achievable Internal Combustion Engine Economy and Emissions Performance by Improved Engine Control"	OS-70067	90,000
Princeton	"Alternative Policies for Implementing Transportation Corridor Land-Use Management and Development"	OS-80008	25,596
Princeton	"Improvement in Rail Vehicle Performance through Control of Linear Motor Lateral and Normal Forces"	RC-92033	82,000
Princeton	"Optimization of High Speed Railcar Trucks Using Advanced Electric Traction Technology"	81C-00026	88,589
Puerto Rico, Mayaguez	"Highway Conditions and Highway Accidents: A Multivariate Design Model"	80C-00027	108,000
Purdue	"Non-Destructive Determination of Residual Service Life of Bridge Structures"	RC-92034	72,806
Rensselaer Poly. Inst.	"The Development of An Integrated Urban Traffic Control System; Network Simulation; Interactive Computer Graphics Program"	80C-00028	80,000
Stanford	"Air-Fuel Mixture Sensing and Control in Engines"	80C-00030	84,995
Stanford	"Development of Ultrahigh Carbon Steels for Transportation Applications"	80C-00031	108,000
Stanford	"Japanese Urban Excavation Technologies: Evaluation of Potential for Improving Productivity on U.S. Subway Station and Guideway Construction Projects"	81C-00027	81,261

UNIVERSITY	TITLE	CONTRACT NO.	FUNDING($)
Syracuse	"Shipper/Receiver Mode Choice and Service Availability in Rural Communities"	81C-00028	85,974
Texas, Austin	"Improving Flow Management and Control Via Shortest Path Analysis"	OS-70074	99,915
Texas A&M	"A Nonlinear Analysis of Liquid Sloshing in Rigid Containers"	RC-92037	80,000
Texas A&M	"Optimization Study for Ultrasonic Flaw Detection in Railroad Rail"	80C-00032	51,924
Texas A&M	"Evaluation of the Impact of the Motor Carrier Act of 1980"	81C-00029	77,587
Texas A&M	"The Quality Assurance of Heat Fused Thermoplastic Pipeline Joints"	81C-00030	45,931
Virginia	"Limiting Performance Approach to Systems Design"	RC-82019	100,000
Virginia	"Application of Image Processing to Vehicle Guidance and Safety"	80C-00033	85,500
Virginia	"Impacts of Public Transportation Terminals on Land Use and Community Development"	81C-00031	85,885
Virgina State College	"Socio-Economic Impact of Intra-State Motor Carrier Regulations on Rural Development"	RC-82020	59,377
Virginia Poly. Inst.	"Interaction and Load Transfer Through Track-Guideway Systems"	OS-80013	70,000
Virginia Poly. Inst.	"Development of Cost Effective Incentive Strategies for Motivating Safety-Belt Usage"	81C-00032	92,000
Washington	"Development of Improved Urban Travel Pattern Mapping Tools"	RC-92041	90,993
Washington	"Development of Urban Form Measures to Aid Post-1980 Investigations of Land Use/Transportation/Energy Interrelationships"	80C-00034	90,512
Washington State	"Parallel Algorithms for Large Scale Network Problems"	RC-92042	72,404
Washington State	"Parallel Processing for Some Large-Scale Network Optimization Problems"	81C-00033	50,897
Wayne State	"Engine Deficiency Indicator"	81C-00034	79,130
West Virginia	"Synthetic Travel Forecasting Using Traffic Count Correlations"	RC-92043	57,430
Wisconsin, Milwaukee	"Predicting Public Response to Prospective Transportation Policies Based on Their Stated Intention"	RC-82023	75,000
Worcester Poly. Inst.	"Shear Strength Characteristics of Soils Subjected to Frost Action"	80C-00035	78,910

UNIVERSITY RESEARCH--DEPARTMENT WIDE

Sen. Andrews: To what extent do you coordinate your university research program with those in UMTA and the Maritime Administration? Is there capacity to integrate these programs into one DOT-wide program?

Response: The University Research Program is a Department-wide program, and there is complete coordination on a continuous basis. We coordinate with the Office of the Secretary, U.S. Coast Guard and operating administrations during the annual research needs determination, during proposal review and selection, contract monitoring, and results utilization. In addition people from agencies such as UMTA and MARAD serve as technical monitors for the contracts; technology sharing and research hand off occur mainly between the University Research Program and the operating administrations. Staff in the Office of University Research are frequently called upon for advice. For example, the staff assisted MARAD in establishing their university research program and UMTA in improving the review procedures for their program.

With respect to the integration of all three programs into one DOT-wide program, this is a question that has been reviewed in the past and is presently being considered by top management within the Department. The main consideration is what is the best way to have maximum utility of university research in serving the Department. Presently the Office of the Secretary, the U.S. Coast Guard and all the operating administrations fund university research which can be immediately applied to their own purposes. The RSPA University Research Program funds research which is more fundmental and longer range than that normally found in these other organizations. Once the RSPA research approaches fruition it is frequently handed off to one of the DOT agencies. In this sense the RSPA University Research Program is a seed effort for all DOT research. Coordination of the Program with the other DOT research groups over the past eight years has assured an extremely productive realtionship.

UNIVERSITY RESEARCH FUNDING

Sen. Andrews: Given proposed reductions by the Administration in financial aid to higher education, how can you request $3.5 million, or 47% of your total R&D request for University Research?

Response: The Program of University Research does not offer grants, support, assistance, or financial aid to higher education. The program is one of contract research for well defined projects of specific use to the Department of Transportation.

RATIONAL USE OF TSC RESOURCES

Senator Andrews: The DOT 1982 Appropriations Bill, P.L. 97-102, reduced spending on research and development by the various operating administrations by approximately $55 million. What steps are being taken at the Transportation Systems Center, in Cambridge, Massachusetts, to ensure rational use of resources and staff?

Response: TSC operates on a Working Capital Fund. TSC has no budget of its own and must pay salaries and expenses of TSC personnel from project funds negotiated directly with operating administrations on a project by project basis. The Working Capital Fund, therefore, provides a "market" mechanism to ensure rational use of resources and staff. TSC's staff levels and skill mix are directly related to the project needs of the operating administrations through project negotiations. TSC continues to support high priority programs of DOT, and has assurances from the Secretary that TSC will continue to be a viable entity in the Department and receive no more than its share of further reductions.

The following specific steps are also being taken:

- o TSC has incurred budget reductions of about 20% from FY1981. This has necessitated staff reductions in the order of 15% to keep within budget and programmatic constraints.

- Administration policy changes and DOT program reductions have led to less engineering-oriented work at TSC and additional analytic work. TSC anticipated this change in Departmental programs and moved to adjust its skill mix through the first RIF in the Department in FY82 held in November 1981.
- TSC has taken a series of cost reduction actions which have resulted in over $3 million savings in such areas as support service contracts, printing, facility maintenance, alterations, and utilities. TSC will continue to closely monitor and review its costs of operation and adjust resource use as appropriate to meet the needs of the changing operating administration programs.
- TSC has moved to offset the impacts of the budget cuts with emphasis on activities in information systems to improve management effectiveness in DOT and has a major initiative with NHTSA in drunken driving countermeasures and occupant protection.

TSC CONTRACTING RATIONALE

Senator Andrews: A good deal of the work sent to TSC by the sponsoring administrations is contracted out by TSC to the private sector (over one-third). Can you discuss the rationale for this action?

Response: The decision about what work is appropriate for TSC and what is appropriate for the private sector is an important management action at TSC. In making this management decision, TSC assures its compliance with OMB Circular A-76, DOT R&D policy directives and guidelines, and Federal Procurement Policies in the implementation of each project. After a project is approved by a sponsor, TSC makes the final assignment of in-house labor and contract resources to the project.

In allocating its labor and contract resource to projects, TSC assigns its technical staff on the basis of in-house skills needed and available, familiarity with the sponsor's problems, and the type of work to be performed. TSC's staff has always performed work generally regarded as appropriate for in-house performance. The TSC staff is assigned the front-end planning and policy analysis work, those tasks associated with project management, integration and synthesis of work performed by contractors, and work having to do with discretionary application of government authority. The private sector is used to perform those activities done in support of the Center's projects such as data and information gathering, programming support and hardware development. TSC is considered by the Department to be an R&D "core capability" - an inherently governmental DOT function.

The character of work performed at TSC varies from mode to mode and determines the level of work and skill areas contracted to the private sector. TSC support for some sponsors tends to be based on unique Center capabilities and skills in specialized areas and is in-house in character. Other sponsors depend heavily on TSC support to manage large programs including outside contracts. These programs benefit from TSC's "institutional memory" and expertise developed from work performed in a great range of areas over the years. The shift in emphasis in DOT work to analysis and assessment has increased the relative importance of in-house resources and decreased in the importance and magnitude of work contracted to the private sector.

TRANSPORTATION SYSTEMS CENTER

Senator Andrews: Would it be more cost effective to do this work totally in-house, or on the other hand, contract it all directly to the private sector from the modal administrations? Have you made any formal evaluations of this cost comparison.

Response: It is not reasonable to do all of this work in-house or to contract it all out for the reasons given in the preceding question. This holds true regardless of where responsibility of work resides, at

TSC or within modal administrations. If the modal administrations chose not to use TSC they would lose the benefits of the Center including the synergism of multimodal experience and economies of scale. Also, since these modal administrations would then have to build their own TSC-like capabilities, the efficiency of the Department would be reduced through duplication of skills.

TSC has conducted two recent studies comparing the Center with other organizations. An October 1981 study compared the cost of TSC with equivalent work in Washington, D.C. It showed that civil service salaries, on average, are lower and that facilities costs per person are less than half that at DOT headquarters. The net result is that a program at TSC would be at least 10% less expensive than one at headquarters. A second study done in January 1981 compared the TSC's cost per technical labor year with private sector organizations which, while not performing the same Federal role as TSC, have staffs with similar skill mixes and education levels. The finding was that a fully-costed TSC technical labor year costs no more than the least expensive alternative and is less expensive than most.

PAY SUPPLEMENTAL

Senator Andrews: Please break-out your 1983 request for object class line 25, other services, including the amount for the pay supplemental. What will be the total amount requested by RSPA for the 1982 pay supplemental?

Response: The break-out of our 1983 request for object class line 25, other services, is as follows:

OPERATIONS:	
Hazardous Materials	$ 1,925,000
Pipeline Safety	586,000
Emergency Transportation	300,000
OST/WCF	164,000
RESEARCH AND DEVELOPMENT:	
Hazardous Materials Technology	1,405,000
Pipeline Safety Technology	875,000
Advanced Research and Technology [1]	1,050,000
University Research	3,050,000
Telecommunications	885,000
Statistics and Information	211,000
Total	$10,451,000

1/ Deferral from FY 1982 to FY 1983.

There is no planned Pay Supplemental Request for FY 1983 being requested at this time. The pay increases in accordance with Section 107 of P.L. 97-51, as they affect FY 1983, have been included in the Personnel Compensation and Benefits Estimates as shown on the Object Classification Schedule, page RSP-4, for FY 1983.

The amount requested by RSPA for the 1982 pay supplemental is $218,000. These funds are to be derived by transfer, of the unobligated balance, from the Cooperative Automotive Research Program 1981 appropriation.

Questions Submitted by Senator Chiles

INCREASE FOR OPERATIONS

Senator Chiles: The appropriation level for the agency in 1982 was $17,441,000. The $21,300,000 requested for 1983 represents a 22 percent increase. Last year, Mr. Stockman told us that in times of fiscal austerity, research is one of those activities that can be deferred and stretched out. Specifically, why and for what purpose is RSPA proposing a 22 percent increase?

Response: The proposed 22 percent increase from FY 1982 to FY 1983 is in large measure attributable to the fact that additional funds are requested to restore essential programs, in the hazardous materials and pipeline safety areas, to their required levels and to fund those R&D programs that were deferred from FY 1982 to FY 1983.

PIPELINE SAFETY GRANT PROGRAM

Senator Chiles: Based on the results of decisions made in conference on the Continuing Resolution, the pipeline safety program was cut by 24% or by $750,000. The Committee understands that at the level provided, RSPA cannot provide the 50% match to States and that several States (Indiana, Iowa, Nevada, and Oklahoma) may withdraw from the program. Can an effective program be carried out in Fiscal Year 1982 at this reduced level?

Response: Without minimizing our concern over the possible deleterious impacts of the steady decline in the rate of Federal reimbursement to States participating in the Natural Gas Pipeline Safety Program, we believe that an effective program can be carried out in FY 1982 at the current reduced level of funding.

HAZARDOUS MATERIALS PROGRAM

Senator Chiles: The National Transportation Safety Board issued a report last September 29, 1981, entitled Status of DOT's Hazardous Materials Regulatory Program that provided a blistering indictment of the Hazardous Materials Program operated by RSPA. For example, in four of the 12 conclusions reached in the study, it was found that:

1. Safety Board, congressional, and GAO reviews of the DOT's implementation of its hazardous materials safety responsibilities, since 1969, have consistently identified the same needed improvement in DOT programs. An internal DOT study conducted in 1978 reached essentially the same conclusion.
2. DOT Administrations do not focus their limited hazardous materials inspection and enforcement capabilities upon either the industry segment in which most effective improvements could be accomplished or upon the specific products that pose the greatest potential for harm.
3. DOT has not established a cohesive, effective management system for efficiently administering all of its hazardous materials responsibilities.
4. During recent years, DOT management has begun to recognize the need for and act upon some hazardous materials program improvements, but the dispersal of responsibility within the DOT structure prevents development of an effective effort.

Please respond to each of these conclusions. What is RSPA doing to improve the program?

Response: Almost ten years ago the General Accounting Office issued a report criticizing DOT for failing to establish a centralized hazardous materials program. At that time (1973), DOT was six years old and was the first Federal department to be assigned total authority for hazardous materials transportation safety after almost a century of Federal involvement. The hazardous materials program was administered under the terms of the Department of Transportation Act which specifically precluded the Secretary from directly administering any of the Department's safety regulatory programs (except marine safety). Instead, such authority was vested directly in the several Administrators. In order to maintain some policy control over the Administrators, the Secretary was forced to create and staff an elaborate internal review system. Thus, the situation which the GAO criticized was one that had been legislatively mandated.

This unsatisfactory arrangement was finally eliminated in 1975 when the Hazardous Materials Transportation Act (HMTA) granted the Secretary full control of the Department's hazardous materials program with authority to set Department-wide regulations without going through the modal Administrators. In July 1975, exercising the new authority granted by the HMTA and existing authority under the Natural Gas Pipeline Safety Act of 1968, Secretary Coleman created the Materials Transportation Bureau (MTB).

The creation of MTB brought about the most complete centralization of hazardous materials transportation safety regulatory activities in the Nation's history. MTB was given exclusive responsibility for:

- Development and issuance of safety regulations governing the transportation of hazardous materials by all modes, except bulk-by-water.
- Representation of the U.S. at meetings of international standards-setting bodies concerned with transportation of hazardous materials.
- Development of training programs for government and industry personnel involved in hazardous materials transportation.
- Collection, analysis and dissemination of information concerning hazardous materials transportation.

The only function which was not assigned exclusively to MTB was enforcement because consolidation of this activity was simply not efficient. The modal administrations all had enforcement programs which would have continued regardless of who exercised enforcement jurisdiction over the hazardous materials transportation safety regulations. Therefore, rather than duplicating the enforcement capabilities of the modes and thereby subjecting the transportation industry to yet another body of Federal inspectors, the Secretary delegated enforcement authority to each of the modal administrations for those hazardous materials transportation safety regulations affecting the respective modes. MTB was delegated enforcement authority for those regulations governing pipeline safety and intermodal transportation (e.g., container manufacturing standards). This decentralized approach to enforcement also recognized the inherent public safety role to be played by existing state and local enforcement agencies. With a uniform body of safety standards, compliance could be ensured by properly trained enforcement groups at any level of government.

Thus, the only element of the Department's hazardous materials transportation safety program which has not been consolidated under a single organizational element is enforcement.

Nevertheless, in 1981 the NTSB issued a report which concluded that the organization of the program was insufficient to ensure that long-range planning, establishment of Department-wide objectives and effective use of limited resources. We feel that the facts do not support this conclusion.

All hazardous materials program functions except enforcement are centralized in MTB with a single planning, budgeting and management process. Enforcement, while budgeted and managed along modal lines, is planned through extensive Departmental coordination. For over a decade the Department has held monthly Intermodal Hazardous Materials Meetings concerning matters affecting hazardous materials regulation. Recently, the increase in the Department's hazardous materials inspection and enforcement activities prompted MTB to establish a separate monthly intermodal meeting on enforcement issues alone. Items covered at these meetings include: recent interpretations affecting enforcement of the regulations; coordination of inspections by each administration to prevent duplication of effort; and problems arising from specific cases, court decisions, etc., that could affect future actions.

In conclusion, the Department has organized the hazardous materials transportation safety program in a manner which enables it to achieve maximum consolidation of program control consistent with efficient resource utilization in achieving its dual objectives of: (1) minimizing the public safety risk inherent in the transportation of hazardous materials by all modes, and (2) reducing the regulatory burden on commerce to the maximum extent consistent with public safety.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

STATEMENT OF REV. JERRY MOORE, CHAIRMAN, BOARD OF DIRECTORS

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. Our next group is the Washington Metropolitan Area Transit Authority. Mr. Jerry Moore, Chairman of the Board of Directors, Richard Page, General Manager, and their associates. We welcome you to the committee.

I understand that Reverend Moore and Dick Page both have statements. We would appreciate it if you could submit them for the record. We would have that much more time for questions given the time restraints that we have this morning.

Reverend Moore, will you go first? Welcome to the committee.

Mr. MOORE. Thank you, Mr. Chairman. My name is Jerry A. Moore, Jr. I am Chairman of the Board of Directors of the Washington Metropolitan Area Transit Authority.

Mr. Chairman, members of your committee, I am aware that this committee is accustomed to hearing requests for additional appropriations. I am also painfully aware of the financial constraints and economic realities with which this committee must balance its decision. However, as a resident of this area, I am equally sensitive to the vital role public transportation plays in sustaining the region's economic vitality by providing traffic relief, transportation alternatives, and enhanced business development.

In the not too distant past, the citizens of the Washington region displayed their support for the Metro transportation system by permitting their locally elected officials to withdraw interstate highway funding in unprecedented amounts to provide an additional appropriation for Metrorail construction.

The proposal to be made by Mr. Page recognizes the balanced transportation needs of the District and the region, and is staunchly supported by the District government, the local jurisdictions in Maryland and Virginia, and the Transit Authority's Board of Directors.

We have reached a crossroad in the construction of the Metrorail system. If funding is allowed to drop too far, the system will encounter further delays, retarding economic opportunities, inhibiting proper land use development, and foreclosing transportation alternatives for the citizens of the metropolitan area. However, with adequate funding support from this committee, we can continue this program to full completion with all its attendant benefits.

I wish to thank you, Mr. Chairman, and members of the committee, for the opportunity to present our program and to urge you to endorse the following proposal contained in Mr. Page's testimony.

PREPARED STATEMENT

Senator ANDREWS. Your statement will be inserted in the record at this point. Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF REV. JERRY MOORE

Thank you for giving me the opportunity to appear before the committee today.

As Chairman of the Washington Metropolitan Area Transit Authority's Board of Directors, I would like to voice my support for the fiscal year 1983 Metrorail funding proposal to be presented today by Mr. Page.

I know this committee is accustomed to hearing requests for additional appropriations. As an elected official, I, too, must frequently weigh and review many appeals for increased funding from the various agencies in my jurisdiction. I am also painfully aware of the financial constraints and economic realities with which this committee must balance its decision. However, as a resident of this area, I am equally sensitive to the vital role public transportation plays in sustaining the region's economic vitality by providing traffic relief, transportation alternatives, and enhanced business development.

In the not-too-distant past, the citizens of the Washington region displayed their support for the Metro transportation system by permitting their locally elected officials to withdraw interstate highway funding, in unprecedented amounts, to provide additional appropriations for Metrorail construction. They have committed themselves to a balanced transportation network.

We are now nearing the end of the interstate transfer authorizations. The District of Columbia requires the last remnant of its interstate funding for much needed road and bridge repairs. The proposal to be made by Mr. Page, recognizes the balanced transportation needs of the District and the region and is staunchly supported by the District government, the local jurisdictions in Maryland and Virginia, and the Transit Authority's Board of Directors.

I believe we have reached a crossroad in the construction of the Metrorail system. If funding is allowed to drop too far, the system will encounter further delays, retarding economic opportunities, inhibiting proper land-use development, and foreclosing transportation alternatives for the citizens of this metropolitan area. However, with adequate funding support from this committee, we can continue this program to full completion with all its attendant benefits.

I again, thank the committee for the opportunity to present our program and urge you to endorse the following proposal contained in Mr. Page's testimony.

STATEMENT OF RICHARD S. PAGE, GENERAL MANAGER

Mr. PAGE. Thank you, Mr. Chairman. I will be brief. We are now a 39-mile, 44-station, 7-day-a-week operating railroad, starting from a modest beginning of 5 miles and 5 stations in 1976. We now run trains from New Carrollton to National Airport, from Addison Road to Ballston, and from Silver Spring to Van Ness.

We link Maryland to Virginia, homes to work, and people to recreation and shopping. We run 44 trains every hour and carry 290,000 people on them every workday. We have two openings planned for which almost all of the funding has been approved. Perhaps Mr. Egbert can point these out on the map as I mention them on the top of page 2 of my statement.

Our next opening scheduled for 1983 will initiate service to the citizens of Alexandria and Fairfax County as the Blue Line is extended south to Huntington and as the Yellow Line opens from National Airport across the river to Gallery Place. This opening depends upon the availability of new rail cars now being manufactured.

The second segment now planned for late 1983 or early 1984 is the long Red Line segment from Van Ness all the way to Shady Grove. In the interest of time, Mr. Chairman, I will move over to page 4 and speak directly to our construction program.

Last October our Board of Directors, which represents seven local governments, the District of Columbia, and two States, reached agreement on a 4-year construction program which pledged local dollars to support Federal dollars to carry out this construction program. When we put that program together, we actually reduced our planned request for dollars in an effort to be responsive to the constraints on the Federal budget.

We still wanted to maintain a schedule without any major delays. The 1983 rail construction program, which we are here to talk about, continues to fund construction on our next two priority segments. Again, as Mr. Egbert will point out—we are already under construction to the west on the Orange Line from Ballston to Vienna and on the Inner Green route between Anacostia and U Street.

Each of these is an operable segment by our definition and by UMTA's. In addition, in our 1983 program, some funding is programed on the Red Line to Glenmont, the Green Line to Greenbelt, and the Yellow Line to Springfield/Franconia.

This construction program balances realistic progress toward completing the system and efficient use of limited resources. Included in the program is $70 million for additional rail cars for four of the five increments of our 295-car procurement. This program was a result of 6 months of work by our local jurisdictions and the Board of Directors.

It represents a major step forward in completing the 101-mile system and illustrates the firm local commitments and difficult political compromises that have kept this project alive. Our Board of Directors today recommends that Congress support our request to the administration of $375 million.

We got that number based on OMB guidance in the spring of 1981 and repeated in the summer of 1981. The amounts in our agreement, including the $375 million for fiscal 1983, are substantially below the construction level we are capable of performing and even at that level will still delay the completion date of the 101-mile system well into the 1990's.

On page 7, the statement comments in some detail about what is in the administration's budget and where we have some difficulty with that. The administration's fiscal year 1983 budget proposes a $100 million appropriation from the Stark-Harris legislation and an additional $195 million from interstate transfer funds.

This combination of funding equals $354 million when a local match is applied. This is some $100 million below our minimum requirement. All of this $100 million reduction will fall in the construction area which will cause significant delays. The reduction in 1982 has already postponed the 4-year program. An additional $100 million reduction on top of that would not only cause major delays but make it extremely difficult to sustain the political coalition of eight local and two State governments.

This coalition endures because each local government has paid large amounts of money already on the promise that all rail segments will be built in a reasonable time. If construction is postponed far into the future, costs much more, and completion seems unlikely or remote, then the political glue begins to crack.

As you are aware, there is another problem with the administration's proposal. The government of the District of Columbia, which Chairman Moore represents, has informed the administration that it intends to use $154 million in interstate transfer funds for roads and bridges that desperately need repair.

This choice is permitted under the Federal Highway Act of 1973 and is clearly supportable since the District government has transferred almost $2 billion for Metrorail construction and since the roads and bridges desperately need repair and reconstruction.

The District government tells us that in addition to the $7 million appropriated in fiscal year 1982, it seeks $53 million in fiscal year 1983 on roads and bridges and intends to reserve the balance of the remainder for future years. I do have letters this morning, Mr. Chairman, which I would like to submit for the record from the District, from the State of Maryland, and from Virginia which explain those three jurisdictions intentions regarding their interstate transfer funds.

Senator ANDREWS. They will be included in the record as part of your testimony.

[The information follows:]

March 9, 1982

The Honorable Andrew L. Lewis, Jr.
Secretary of Transportation
400 7th Street, S. W.
Washington, D. C. 20590

Dear Mr. Secretary:

I am writing in reference to your letter of December 22, 1981 to the members of the Washington Area Congressional Delegation regarding future Metrorail funding.

One year ago, the previous chairman of the Northern Virginia Transportation Commission, James M. Scott, wrote to you expressing the Commission's concern about continued Federal commitment to complete construction of the 101-mile Metrorail system. We are encouraged by your support for continued funding of Metrorail construction and your desire to help remove obstables to completing this important project.

The Commission is actively working with state and local officials to address the need for additional assurances of stable and reliable funding as required by the Stark-Harris legislation. I anticipate that a satisfactory plan will be submitted to you in the near future.

We are concerned, however, about the proposed Federal funding for Metrorail construction in FY 1983. The Commonwealth of Virginia has supported Metrorail funding through withdrawal of Interstate 266 and construction of much of the Metrorail right-of-way in the median of Interstate 66. The remaining Virginia Interstate entitlements for Interstate 595, however, are required for critical highway improvements to U.S. Route 1 in Arlington County and are therefore not available for transfer to Metrorail construction projects. The Commission unanimously supports Arlington

It is my understanding that Maryland and the District of Columbia also plan to use most of their remaining Interstate entitlements for non-Metrorail projects, thus greatly reducing the available funding for Metrorail from this source in FY 1983. Therefore, I urge you to support additional Stark-Harris funding above the proposed $100 million in order to provide sufficient funding from both sources combined to maintain an adequate Metrorail construction program in FY 1983.

Sincerely,

Carol W. DeLong

Carol W. DeLong
Chairman, Northern Virginia
Transportation Commission

REMAINING INTERSTATE HIGHWAY ENTITLEMENTS IN THE WASHINGTON METROPOLITAN REGION AVAILABLE FOR APPLICATION TO WMATA & DC SUBSTITUTION PROGRAMS

($000 Omitted)

		Application to Programs						
		Metrorail Construction			D.C. Highway Projects 2/			
Entitlements	Total Remaining Entitlements	FY 1982	FY 1983	Total	FY 1982	FY 1983	Beyond FY 1983	Total
DC - Withdrawn or pending withdrawals 1/	$438,094	$245,000	$39,094	$284,094	$7,110	$53,000	$93,890	$154,000
Maryland - Withdrawn 3/	65,348	39,240	26,108	65,348				
Totals	$503,442	$284,240	$65,202	$349,442	$7,110	$53,000	$93,890	$154,000

1/ D. C. has contributed $1.686 billion to Metrorail construction through FY 1981; a total of $1.970 billion will have been contributed through FY 1983. This includes $253.5 million in a request filed by the District for withdrawals of portions of I-266 and I-66 which U.S. DOT is processing and $11 million for an I-66 K Street Interchange which may or may not be eligible for withdrawal.

2/ FY 1982 amount reflects actual appropriation. FY 1983 amount and Beyond FY 1983 amount reflects D.C. DOT estimate of budget proposals to be submitted to U.S. DOT.

3/ Maryland has contributed $88.3 million through FY 1981; a total of $151.6 million will have been contributed through FY 1983. In addition, Virginia has contributed $51.7 million in highway transfers.

NOTE:

Proposed Budget Amounts - FY 1983

	Federal Proposal	WMATA Budget	Change
Total Transit Entitlements-Nationwide	$400,000 4/		
Metro Entitlements Funding	$195,000	$ 65,000	$-130,000
Stark-Harris Funding	100,000	310,000	+210,000
Total Proposed Metro Budget	295,000	375,000	+80,000

4/ If $65 million is allocated to WMATA rather than $195 million, then $130 million additional will remain for distribution nationwide.

March 8, 1982

The Honorable Drew Lewis
Secretary of Transportation
U.S. Department of Transportation
Washington, D.C. 20590

My dear Mr. Secretary:

I am writing this letter in response to the recent Administration's proposal for the METROrail construction program in Fiscal Year 1983. This proposal raises several issues that require immediate attention if there is to be a construction program at all in the coming fiscal year.

Over the past seven months I have repeatedly advised senior OMB and DOT officials that District of Columbia Interstate substitution funds are running out. Even with planned withdrawals of remaining portions of I-66 and 266, I anticipate less than $40 million for METROrail construction from D.C. substitution entitlements during FY 1983. A summary of the D.C. Substitution program is attached for your further information. I understand that Maryland will have less than that amount available for METRO construction next year and that Virginia has no substitution funds available for 1982 or any future year. Hence, less than $70 million is available for the 1983 construction program, although the Administration's proposal calls for $195 in substitution funds for METRO.

During FY 1982, the District is providing $245 million out of a total of $285 million in substitution funds for METROrail. In the past six years, more than $1.9 billion in District substitution entitlements have been used for METROrail construction - far more transfer funds than any other city in the United States has used for transit. If we were able to provide more than $40 million next year, the District would do so.

In light of the limited substitution funding available, the $100 million in Stark-Harris funds proposed in the Administration's budget for FY 1983 is less than a third of what is needed to keep METROrail construction on schedule. At the $170 million level, car purchase, debt service payments, and current construction are virtually all that would be possible. Under these circumstances, METRO must be allowed to use a substantial amount of funds in FY 83 as authorized under the Stark-Harris legislation in 1979. To reach the basic $295 program level, $230 million in Stark-Harris funds and $65 million in substitution funds would be needed. To maintain the construction schedule, $375 million is needed for the program, so that more than $300 million in Stark-Harris funding is actually required.

The recent decision by the Federal Highway Administration to reject funding of the Anacostia METROrail bus and parking facility as an Interstate project further complicates the METRO funding problem. This $31.5 million project would enable the area between I-295 and the Anacostia River at the station to be used as a regional bus and auto traffic intercept. Over 1,000 buses a day would use the facility. This project would greatly relieve the increasing demand on the I-295 bridges over the Anacostia. An application for this project was made to the FHWA February 1981, but the agency did not turn down the project until mid-December. A recent letter appealing this decision, which describes the environmental and operational advantages of this project, is enclosed. The District has sufficient Interstate apportionments to undertake this project. More importantly, METRO's 1983 budget does not anticipate use of substitution or Stark-Harris funds for this work. Thus, disapproval of the Anacostia project further complicates 1983 funding for METRO.

The District's substantial support for METRO,is evidenced by our use of almost $2 billion in Interstate transfer funds for METRO. We are greatly concerned that these funding problems are occuring at a time when major work is planned on the Inner Green Line - a high priority for the District and would appreciate clarification of U.S. DOT's support for completion of this key segment.

In view of the confusion over the availability of substitution funds and the effect of the decision to disapprove the Anacostia project on METRO's 1983 budget, I would welcome an opportunity for METRO board members and the METRO General Manager to meet with you to consider a more realistic course of action.

Sincerely,

Thomas M. Downs
Director

D.C. INTERSTATE SUBSTITUTION PROGRAM

WITHDRAWAL FUNDING SOURCE	FEDERAL FUNDS (millions)
14.3 Miles of Interstate Segments	$ 1,894.0
Pending (I-266) (two sections)	243.3
TOTAL VALUE OF INTERSTATE WITHDRAWALS TO DATE	$ 2,137.3
SUBSTITUTE PROJECTS	
D.C. Road and Local Transit Projects Funds	$ 20.1
Metrorail Construction Funded	1,686.3
TOTAL	$ 1,706.4
BALANCE REMAINING	
Current, plus pending withdrawal	$ 430.9
POSSIBLE ADDITIONAL WITHDRAWAL	
I-66, Section 1.11	$ 12.5
TOTAL AMOUNT POTENTIALLY AVAILABLE	$ 443.4
ESTIMATED COMMITMENTS	
FY 82 & 83 Metrorail Construction	$ 289.4
FY 82 - 85 D.C. Local Projects	$ 154.0
TOTAL D.C. COMMITMENTS OVER LIFE OF PROGRAM	
Metrorail Construction	$ 1,975.7
D.C. Road & Local Transit Projects	$ 174.1
TOTAL PROGRAM (Estimated)	$ 2,149.8

January 29, 1982

The Honorable Drew Lewis
Secretary
U.S. Department of Transportation
400 - 7th St., NW - Room 10200
Washington, DC 20590

Dear Secretary Lewis:

Your letter of December 22, 1981 to the members of the Washington Area Congressional Delegation regarding future Metrorail funding recently has come to my attention.

I am pleased, but not surprised, to hear that your Department has concluded that the State of Maryland's participation in operating costs and debt service payments for the Washington Metrorail and Metrobus systems meets the stable and reliable provision of the Stark-Harris legislation. I am concerned however, by the second issue you raise regarding the use of Interstate transfer resources for Metrorail construction in FY 1983.

The State of Maryland has already provided over $88 million to Metrorail system construction from sections of Maryland Interstate 95 within the Capital Beltway which were withdrawn in 1975. We also anticipate providing an equitable portion of the Interstate transfer resources required to fund the FY 1982 Metrorail construction program. We do not, however, intend to withdraw any additional Maryland Interstate segments within the Washington Metropolitan area.

It is my understanding that the Commonwealth of Virginia has no intention of withdrawing additional Interstate segments. The District of Columbia, furthermore, has chosen to use substantial amounts of its remaining Interstate entitlements for its local highway construction program.

Under these circumstances, there would only be a regional total of $60 to $70 million of Interstate transfer resources available to fund Metrorail construction in FY 1983. This amount, combined with the budgeted $100 million of Stark-Harris resources, will provide less than half of the construction program originally anticipated in the Spring of 1981 by both the Federal Office of Management and Budget and your Department. It is my understanding that no additional Metrorail construction would be possible at this budget level.

This causes me great concern in that Maryland's planning and programming of transportation facilities in the Washington region, for years, has been predicated upon the timely completion of the full 101 mile Metrorail System. The completion of the system remains a cornerstone of Maryland transportation policy in this region. Now under a reduced level of Federal funding, Maryland would be asked to provide a substantial local share of the 1983 Metrorail construction program without a reasonable expectation of additional construction of direct benefit to Maryland.

I would appreciate clarification as to your Administration's intentions with regard to those elements of the Metrorail system which remain incomplete in Maryland. Specifically, I refer to the Glenmont (B), Greenbelt (E), and Branch/Rosecroft (F) Routes. I am particularly interested in confirmation of your Department's support for direct construction on elements of these routes as it is proposed in the FY '83 through FY'85 Metrorail Interim Capital

Contributions Agreement III. Your response will be most helpful as the Department develops its position vis-a-vis State support, in these years, for the Metrorail construction program and our continued willingness to make the remaining Interstate transfer resources from the previously referenced segments of Interstate 95 available for Metrorail system construction.

We will appreciate your explanation of the Administration's position on these matters.

Sincerely,

Lowell K. Bridwell
Secretary

INCREASE IN STARK-HARRIS AUTHORIZATION

Mr. PAGE. Because of these problems, our recommendation is that Metrorail appropriations for 1983 be increased from the Stark-Harris authorization. Thus, instead of the proposed $295 million Federal interstate transfer plus Stark-Harris, a $375 million appropriation would be made up of interstate transfer funds of $65 million, some from the District and some from Maryland, and $310 million from Stark-Harris.

This will allow us to sustain a minimum construction program, as the alternative would be an abrupt curtailment of the Metrorail construction program. In other words, only $65 million in highway transfers and $100 million in Stark-Harris, would be barely enough to close out current contracts.

We would be penny-wise and pound-foolish to cause such a premature end to the Metrorail program at this successful stage in its development. We recognize the tough decisions which your committee has to make to reduce Government spending and improve the economy. However, the Metrorail program, which improves the local economy, has suffered a series of costly delays. To bring it to a standstill in 1983 will drastically increase the eventual cost and limit economic return.

There follows a section on debt service and a description of the stable and reliable legislation that has passed Virginia, passed Maryland, and yesterday the Mayor of the District of Columbia signed into law, the new stable and reliable legislation.

We thank you for this opportunity to testify, Mr. Chairman. We will be happy to answer questions.

PREPARED STATEMENT

Senator ANDREWS. Your statement will be inserted in the record at this point.

[The statement follows:]

STATEMENT OF RICHARD S. PAGE

It is a pleasure to have an opportunity to discuss our program, outline the Authority's critical funding needs for the next fiscal year, highlight Metro's successes, and explain the challenges which lie before us.

I appear before you today to testify on the Washington Metropolitan Area Transit Authority's fiscal year 1983 capital program. In addition, I would like to brief you on the progress we have made to provide the Washington region with a comprehensive, innovative and effective public transportation network already producing more than two billion dollars in economic benefits for the region.

Current Status of the Metrorail System

As you may recall, subway operations began in March 1976 when we opened a 5-mile segment of the Red Line from the Rhode Island Avenue to Farragut North Stations, operating service between 6:00 a.m. to 8:00 p.m. weekdays only. From that modest beginning, we have extended the region's system to 39 miles and 44 stations, operating seven days a week and to 12:00 midnight on six of those days. We now run trains from New Carrollton to National Airport, from Addison Road to Ballston and from Silver Spring to Van Ness-UDC. We link Maryland to Virginia, homes to work, and people to recreation and shopping. We operate 44 trains every rush hour, and carry about 290,000 people each weekday.

The most recent extension, the Woodley Park-Zoo, Cleveland Park, and Van Ness-UDC Stations on the Red Line, opened smoothly and attracted ridership beyond our projections.

Our next opening, scheduled for mid CY-1983, will initiate service to the citizens of Alexandria and Fairfax County as the Blue Line is extended to Huntington and as Yellow Line opens from National Airport to Gallery Place. This opening, however, depends upon the availability of new rail cars now being manufactured. Both segments will reduce travel time and alleviate the overcrowding along the Blue/Orange Line during the peak periods. Further extension of the system is planned for Shady Grove in late CY 1983 or early CY-1984 and Vienna by early CY-1986.

Mr. Chairman, these are tangible concrete benefits that are a testament to firm, uncompromising commitments by Federal, state and local governments. A great deal of the credit for this success belongs to you -the members of Congress - who have steadfastly supported this project and have been an active partner since its inception.

Management Initiatives

The public investment in the Metrorail and Metrobus system would be for naught if we didn't have good people and good programs. We have assembled a skillful and respected management team. We have introduced aggressive management initiatives to enhance service. We have improved reliability, safety, and accountability, and we are committed to additional improvements. We have:

- Implemented a reorganization which places greater emphasis on decentralized management and divisional accountability;
- Applied key management tools including the use of performance measures and management-by-objectives;
- Utilized improved budget controls which require managers to become more cost-conscious;
- Reduced labor expense by limiting overtime, eliminating non-productive and non-essential service, and expanding the use of part-time operators;
- Expanded safety programs to reduce on-duty injuries;
- Made major efforts to control workers' compensation and absenteeism;
- Initiated an aggressive cash management plan which has generated over $3.7 million in fiscal year 1981 revenues;
- Used innovative data processing applications to increase efficiency.
- Improved Metrobus and Metrorail performance as indicated in the following statistics comparing FY 1979 to present:
  - Greater employee productivity. Percentage of Platform Hours to Pay Hours increasing by 6%.
  - Operated more bus miles (+1.8 million miles), with fewer buses, (-90 buses) and with less employees (-67 people).

- Carried 10% greater bus passengers per mile (2.35 to 2.59)
- Reduced accidents per 100,000 bus miles by 6%.
- Increased bus ridership by 16% (19 million passengers) and rail ridership by 44% (25.7 million passengers)
- Improved the performance of farecard equipment so that we have reached a 94% availability level.
- Steadily reduced the number of train delays despite increasing our overall fleet size.

These and many other actions have resulted in better management, better performance, and better service to the public.

Now to the future challenges. Our ability to meet those demands will be the new standard by which we will be measured.

FY 1983 Rail Construction Program

In October 1981, the Third Interim Capital Contributions Agreement (ICCA-III) was approved by the local jurisdictions and the WMATA Board to commit local funding for a four-year rail construction program. This agreement pledges local funding for a construction program which is far short of our actual ability to put projects under contract. In an effort to be responsive to reduced federal spending, the Authority reduced its annual program goal by $100 million while still maintaining a balanced, cost effective objective of completing operable segments now under construction. This enables us to maintain a schedule with some delays and increased costs but not major disruptions to the overall construction schedule. In a special effort to get a larger payoff for fewer dollars, we have advanced the construction of 2 of our Metrorail parking lots in order to make them available as fringe parking lots to enhance public transit until we can complete the necessary full subway construction.

The 1983 Rail Construction Program continues to fund construction on our two next priority segments: the Vienna Route and the Inner Green Route between Anacostia and U Street. In addition, minimum funding is programmed on the Red Line to Glenmont, the Green Line to Greenbelt, and the Yellow Line to Springfield/ Franconia. This construction program balances realistic progress toward completing the system and efficient use of limited resources. In addition, we need $70 million in the 1983 program for additional rail cars for the fourth of five increments of our 294 car procurement.

I should now like to examine in more detail how we develop our construction program. This is essential so that the Committee can appreciate the consequences of reduced funding in a large transit construction program such as ours.

Our program is a mixture of many activities which make up the total construction effort. These activities are important because they must all be completed before actual construction starts. I am specifically referring to the completion of all planning and design work and all real estate acquisition which must precede actual construction. The art of good programming keeps these activities flowing at an even rate so that actual construction projects can be programmed evenly and without great surges in construction activity and dollars. In addition, we also must program different types of construction projects to keep this balance. For example, if we examine the type of construction in our 1983 proposed program, we find the following: (1) Inner Green Line and the Red Line to Glenmont are tunnel construction commonly packaged into larger dollar contracts; and (2) the Yellow Line to Springfield and Green Line to Greenbelt include cut and cover, at-grade and aerial construction. This type of work can be packaged into smaller contracts.

This contract packaging effort enables us to manage more efficiently and to use our dollars more effectively. The nature of this programming means that dollar reductions in the program will inevitably take from the construction projects because both the large dollar items such as tunnel construction and the last steps in the building pyramid are involved. We have been very successful in balancing our program over the last four years. This has enabled us to make progress toward the completion of the overall system and still place priorities on certain operational segments. For example, high priority has been placed in completing the first sixty miles while continuing progress toward scheduled completion of the Inner Green Line from Anacostia to "U" Street, the Orange Line from Ballston to Vienna, and a segment of the Red Line from Silver Spring to Wheaton.

As stated previously, the aforesaid program was a result of the Third Interim Capital Contributions Agreement approved by the jurisdictions and the Board of Directors in October 1981. This Agreement represents a major step forward in completing the 101-mile system and illustrates the firm local commitments and difficult political compromises that have kept this project alive despite the many setbacks and delays.

The Authority's Board of Directors today recommends that Congress support our request to the Administration of $375 million based on OMB guidance issued in early and mid-1981 - the amount contained in our Third ICCA for FY 1983. The amounts in that agreement, including the $375 million for FY 1983, are substantially below the construction level we are capable of performing and will still delay the completion date of the 101-mile system well into the 1990's.

The Administration's fiscal year 1983 budget proposes a $100 million appropriation from the Stark-Harris legislation (PL96-184) and an additional $195 million from Interstate Transfer funds. This combination of Federal funding equates to a $354 million program when the local match is applied. This is approximately $100 million (today's dollars) below our minimum requirement. All of this $100 million reduction will fall in the construction area which will cause significant delays on all the affected routes. The reduction in the 1982 program has already postponed our four year program. An additional $100 million reduction on top of that would not only cause major delays but make it extremely difficult to sustain the fragile political coalition of eight local and two state governments. This coalition endures because each government has paid large amounts of money already on the promise that all rail segments will be built in a reasonable time. If construction is postponed far into the future, costs much more, and completion seems unlikely or remote, then the political glue begins to crack.

As you are aware, there is another jurisdictional problem with the Administration's proposal. The District Government has informed the Administration that it intends to use $154 million in Interstate Transfer funds for roads and bridges that are in need of repair. This choice is permitted under Federal law (Federal Aid Highway Act of 1973, PL93-87) and is clearly supportable since the District government has transferred almost $2 billion for Metrorail construction and since the roads and bridges desparately need repair and reconstruction. The District Government informs us that, in addition to the $7 million authorized in FY 1982, it seeks $53 million in FY

1983 on roads and bridges, and intends to reserve the balance of the remaining funds ($94 million) for future years.

We recommend that Metrorail appropriations for FY 1983 be increased from the Stark-Harris authorization. Thus, instead of the proposed $295 million Federal Interstate Transfer/Stark-Harris mix, a $375 million Federal appropriation would be made up of Interstate transfer funds in the amount of $65 million ($39 million from the District and $26 million from Maryland) and $310 million from Stark-Harris funding. This would allow us to sustain a minimum construction program. The alternative would be an abrupt curtailment of the Metrorail construction program - $65 million in transfers and $100 million in Stark-Harris - barely enough to close out current contracts. We would be penny wise and pound foolish, Mr. Chairman, to cause such a premature end to the Metrorail program at this successful stage in its development.

Mr. Chairman, we recognize the tough decisions which have to be made to reduce government spending and improve the economy. However, the Metrorail program, which improves the local economy, has already suffered a series of costly delays. To bring this program to a standstill will drastically increase the eventual cost and limit economic return to the local governments and the private sector thus negating any short-term gains.

FY 1983 Debt Service Requirements

Included in the Administration's budget is $51.7 million for the Federal government's share of the WMATA debt service.

Under provisions of the National Capital Transportation Act of 1972 (PL92-349) Metro was authorized to sell up to $1.2 billion in taxable revenue bonds which were guaranteed by the Federal government. It was assumed that the debt service on the bonds -- both principal and interest -- would be covered by system revenues in excess of operating costs. Between October 1972 and January 1975, the Authority sold $997 million worth of bonds in five series.

Subsequent to the sale, it was determined that system revenues could not retire the debt. As a consequence, in 1978 the U.S. Department of Transportation and the Authority approved the Initial Bond Repayment Participation Agreement which commits Federal and local assistance to help repay the debt, while requiring local jurisdictions to certify that present and future obligations be secured by stable and reliable sources of revenue. This Agreement was subsequently enacted into law in the Stark-Harris legislation of 1980. The $51.7 million Federal share contained in the budget will be matched by a combined local commitment totaling $25.8 million in bond interest and $.4 million as the first installment to the sinking fund.

Status of Stable and Reliable

A requirement of the bond repayment agreement, the Stark-Harris law, and the financial health of the Authority's transit operations is the establishment of stable and reliable revenue sources. I am pleased to report that stable and reliable revenue sources have been enacted in Maryland and Virginia, and a stable and reliable finance bill has been enacted by the District and is currently pending Congressional approval.

The Virginia plan imposes a motor fuel sales tax that currently provides up to 25% of the Northern Virginia operating assistance needs and will soon provide up to 40% when fully implemented in July 1982 but will level off at about 30% in the out-years as the Metro system is extended. The adequacy of this level is under discussion in Virginia and at the United States Department of Transportation - but all parties recognize that local government actions are necessary to commit additional local revenues to make up the difference between fuel tax revenues and the Metro subsidy requirment. Maryland jurisdictions receive about 70% of their operating assistance requirements from the Maryland State Transportation Trust Fund comprising various taxes on fuel, motor vehicle permits, license fees, etc.

The reduction of Federal Section 5 operating assistance makes it all the more important that stable and reliable revenue sources are secured.

In closing, the economic vitality of the Washington region is dependent on the success of its transportation network. Metro plays a critical role in fulfilling that success. The Board of Trade, the Federal City Council and some Congressional Committees have indicated that the existence of the Metrorail system accounts for over $2 billion in new business development.

This private investment increases local tax revenues, provides new jobs, and adds ridership for the subway.

With your assistance, we can continue the National Capital region's progress toward the completion of its Metrorail system that provides untold benefits to the seat of the Federal government and to the citizens of the region.

Again, thank you and your Committee, Mr. Chairman, for your support and assistance.

This concludes my prepared statement. I will be happy to respond to any questions you or other members of the Committee may have.

GAS TAX INCREASES

Senator ANDREWS. Mr. Page, the Secretary of Transportation has expressed concern over Virginia's gas tax which only covers about 20 to 40 percent of Virginia's share of the cost. The Washington Post reported on March 2, 1982, that both Virginia and Maryland were having difficulty with the gas tax increases, especially when it came to committing the proceeds to mass transit.

It is difficult to conclude from all of this that the signatories are willing and able to continue assuming their share of the construction costs. In these letters, do they assure us that we are going to be able to satisfy the stable and reliable requirements? If the Virginia legislature in particular doesn't approve an acceptable plan within the remaining few days of its session, how are you going to meet that requirement?

Mr. PAGE. The letters, Mr. Chairman, deal only with the question of highway transfers. They don't comment specifically on stable and reliable. If the committee likes, we can ask for additional letters dealing with the stable and reliable.

In Maryland, a bill has been signed into law and provides at least 70 percent of the operating funds necessary for Metro. In the District, the Mayor's bill and Reverend Moore's bill that became law yesterday covers 100 percent of the District's requirement.

There is a soft spot in Virginia. They did pass legislation, they have levied a 2-cent additional gas tax in northern Virginia and an additional 2 cents is due to come on in July 1, 1982.

There are two bills pending today in Richmond, and I am hopeful that one or both or some compromise can be passed. But we take the view, Mr. Chairman, that the legislation in Virginia now pending is icing on the cake. It is supplemental to the law that is already on the books. In addition, there are resolutions prepared by the five local governments to pledge their local revenues to pay the operating cost.

Senator ANDREWS. That is a neat interpretation, but the Secretary doesn't see it that way.

Mr. PAGE. It is his to call.

Senator ANDREWS. I understand that. I am sure you realize that is a problem. It seems strange to me that stable and reliable was never defined, but now is being used as the control mechanism over the fate of the Metro. Has the Department ever provided you with its interpretation of what a jurisdiction would have to do to qualify?

Mr. PAGE. There are lots of words, but the Department has never said to any signatory, "thou shalt cover at least 50 percent, or at least two-thirds, or at least one-third." They have never used a number. But in testimony and letters, they have given us written definitions, but they have avoided using any minimum number that they expect these States to provide.

Senator ANDREWS. My interpretation of what you said earlier is that if we allocate to the Metro more than $65 million in transit interstate transfer funding, you are telling us that you can't use it?

Mr. PAGE. We can use it. But the question is, will the District of Columbia and the State of Maryland and the State of Virginia agree. I know it sounds funny to put it this way, but agree with the congressional action to appropriate funds from the interstate transfer account.

The way, as I understand it, the 1973 act reads, each State has the ability to decide whether the money in their transfer account will be used for highways or transfer.

Senator ANDREWS. My point is that if we provide more than $65 million in interstate funding, you can't use it because they are not going to release more than that for Metro.

Mr. PAGE. That is my understanding and that is what these three letters state, that we cannot expect more than $65 million to come from those three States in the transfer.

Senator ANDREWS. You are also saying that you are requesting $80 million more than what the administration is proposing in total funding.

Mr. PAGE. Yes, sir.

Senator ANDREWS. So even if we wanted to fund you at the administration's proposed level and honored your interstate transfer difficulties, we have to come up with about $230 million in Stark-Harris money?

Mr. PAGE. Yes, sir. We have worked out a one-page table in an attempt to try to simplify this complicated matter. We would like to provide that for you and your staff and the record which shows the way these accounts will fall.

Senator ANDREWS. That would be most helpful. As we understand it, a Stark-Harris increase could technically be accommodated, however, with a comparable reduction in interstate transfer grant levels. That is essentially true, isn't it?

Mr. PAGE. Yes, sir.

Senator ANDREWS. It is my understanding that Metro is proposing a 101-mile subway system, but the Department of Transportation is planning only for a 75-mile system. Has the Department notified you of their intent to only fund a 75-mile system?

Mr. PAGE. To my knowledge we have never received a letter from any official at DOT that says that. We have seen correspondence from them to Members of Congress. We read statements in the paper. I do not know what a 75-mile system is, Mr. Chairman.

Senator ANDREWS. Do you have any idea as to which segments the Department intends not to build?

Mr. PAGE. No; and they have never said that. My interpretation, again it is the Secretary who is the key interpreter, not me, but my interpretation is that he is saying we will build, we will support you toward a 75-mile system. And he is not necessarily closing the door or saying that is an absolute ceiling. But for this period of years, he is supporting us toward at least a 75-mile system.

Senator ANDREWS. Has the Department attempted to curtail your purchase of real estate in those areas you think are not included in the Department's 75-mile system?

Mr. PAGE. Not so far.

Senator ANDREWS. Have you already purchased real estate for segments beyond the 75-mile system?

Mr. PAGE. Yes, sir. We have spent in excess of $500 million on land design and planning activities on segments that could be called outside the 75-mile system.

Senator ANDREWS. If the Department's reduced system became a reality, what problems would you expect regarding the agreements between the three signatories?

Mr. PAGE. I hesitate to contemplate the negotiations and the lawyers and the accountants.

Senator ANDREWS. Roughly the lid would come off?

Mr. PAGE. It would be a breach of faith, Mr. Chairman, and it would be a very complicated matter to go back and work out some equitable way of telling Maryland, well, you paid a lot of money but you don't get what you thought you were paying for. The same is true for Fairfax County in Virginia as well as for the District.

Senator ANDREWS. What would be the possibility and expense of extending Metro's subway out to Dulles? We hear time after time after time that the local area desires to transfer aircraft flights from National to Dulles. The environmental groups favor it. The noise elimination groups favor it.

Yet the reason we are given that Dulles isn't a viable airport is that you frankly can't tell whether it is going to take you 40 minutes or 2 hours and 40 minutes to get out there. And that is not really a dependable airline service.

If we had the interstate segment connected from downtown Washington to Dulles, that would be an important improvement. If we had Metro it would be even more reliable. And then really few people, reasonable people, could object to transferring those flights out to Dulles.

We constantly seem to have objections by the same people who object to using National, to building the interstate. It is beginning to move ahead now. Yet there is no provision, as I understand it, for a connection with the Dulles access road. We see no progress being made on running Metro out to Dulles. Do you have any plans for that? Could you tell us what the cost would be?

Mr. PAGE. I liked your description that it would be more reliable, Mr. Chairman. Our estimate is it would be 35 minutes from Metro Center to Dulles when that railway is built. We don't have plans, but we have done some preliminary engineering and we have reviewed the FAA plans for building the connector from the Dulles access road to I–66.

We have no problem with those plans. We would be glad to give the staff our correspondence with the FAA on that. Our estimate projected out to 1987 for this 13- or 14-mile link is approximately $750 million; it is at grade. There would be a possibility of two or three stations along that line to be built in conjunction with the local government in Fairfax County.

But at this time that would clearly be in addition to, or a supplement to the current program that the Board of Directors has adopted.

Senator ANDREWS. If you could provide some information as to how you might approach it for the record, that would be most helpful.

On the fatal accident Metro suffered on January 13, I appreciate your coming up and explaining the sequence of events that took place to me in my office. What are the conclusions and recommendations of the several ongoing inquiries regarding that accident?

Mr. PAGE. I would like to provide for the record two documents, one is a short report from the outside independent board of inquiry and the other is the first report from our own internal investigating committee. The first opinion from the outside board of review was that human errors caused that accident and that the automatic train control system, which we are very proud of, performed as designed. That is basically the same conclusion that our own internal committee came to.

We have today taken disciplinary action against two key individuals involved, the supervisor and the operator. We have an ongoing investigation into the events of January 13; our evacuation procedures, our training program, and our fire and safety procedures. I am certain that, as tragic as the accident was, it has forced us already to go through an agonizing reappraisal of our policies and procedures. And we are going to be a better organization because of it.

Senator ANDREWS. How do Metro's evacuation procedures differ from other cities which have the third rail system?

Mr. PAGE. Well, each city reaches its own conclusions, Mr. Chairman. After the fire at BART, they changed their procedures and the amount of information they give to the public. Our system is different from New York and Chicago because ours is computer controlled, because we have married pairs of cars linked together.

Our goal always is not to have to evacuate passengers where the third rail is on and between stations. To put it positively, our goal is to get that train into a station and then evacuate.

Senator ANDREWS. Well, that is a goal, but the procedure has to cover the unusual, which is generally what happens. I am sure there is a goal at National Airport to have some type of boat availability for crashes into the Potomac River, but the operational part of it became nonfunctional in the recent plane crash.

Mr. PAGE. I hope "generally" is not the right word, Mr. Chairman. We were quite successful for 6 years and we do have a procedure. Our operators and supervisors are trained in it. The local fire departments are trained in it as to how to evacuate people when the train is between stations. We ran a formal disaster drill with the northern Virginia government's emergency fire rescue squads. Over a year ago we had a drill with the District of Columbia Fire Department before we opened the segment in December to Van Ness.

Senator ANDREWS. Are the employees of Metro, the personnel who are in that area, ticket changers, whatever else, are they trained in this kind of evacuation procedure?

Mr. PAGE. I don't know that the station attendants are, but the train operators and supervisors are. And so are our policemen. One of the changes we are now considering is to institute a required fire safety training course for all operational personnel and possibly for all Metro employees.

Senator ANDREWS. That would be helpful, because I think in a moment of crisis, having a couple of additional individuals to give suggestions to the people who are about to evacuate under their own steam or in some confusion might make the difference between catastrophe and a successful evacuation.

Mr. PAGE. It sounds obvious, but there is no substitute for training, and we are going to have to spend some more money and time both training our operational personnel, raising our standards, probably instituting a certification program and refresher training for operational people, as well as continuing to work closely with the local fire departments.

Senator ANDREWS. Last year you testified that you received $26 million in operating subsidies and said that that represented about 9 percent of your total revenues. What is the latest amount of the percentage estimate?

Mr. PAGE. It is $23 million for fiscal 1982, Mr. Chairman. Against a total operating budget of about $307 million. So I think we have just slid under 8 percent. The estimate in the President's budget for fiscal 1983 would lower our amount down to $14 million.

So this program is phasing out, I guess. That is what the administration's assumptions are and it poses an additional burden on the local governments, and the need for stable and reliable revenue sources.

Senator ANDREWS. According to the information provided us by the GAO, Metro had a contract for railcars with the Italian firm of Breda to provide 94 cars with an option for an additional 200 cars at the same price. We are told that Metro let the option expire and then issued a new sole source contract for the same 200 cars at a total additional expense of $16.5 million, $14 million of which are Federal funds. Is this account accurate and, if so, why was it allowed to happen?

Mr. PAGE. I would like to ask John Egbert to comment. But my brief comment is, I don't think it is accurate as you have read it, and I don't think we have seen it. We would appreciate an opportunity to give you our own view on that.

Mr. EGBERT. Mr. Chairman, the words or what you read from are not accurate. That option was not allowed to expire. We accepted that as an option. That was not a sole source procurement.

Senator ANDREWS. That is what we are interested in getting on the record. That is what the GAO information indicated. That is, of course, what we have available to us. So let me say that we will make available to you this afternoon that GAO information. And we would appreciate it if you could provide at this point in the record your detailed answers to the concern raised by the GAO information.

Mr. EGBERT. I think it is fair, as far as I am concerned, to characterize that was a slight distortion of what took place.

Mr. PAGE. We had a competitive procurement in 1979. Each bidder was invited to propose an option. Breda was the low bidder by some distance over the second bidder, and the third, which was an American company, was 30 to 35 percent higher. Each company provided a basic contract and an option with time schedules for exercising the option. We exercised the option on time with the approval of the Federal Government, UMTA.

There was a phrase in what you read that was at the same price. There was never an intention on our part or any bidder that an option car would cost exactly the same as an initial car because the original contract provides for escalation due to cost increases over time.

Senator ANDREWS. We were told by GAO that you had a contract for the 94 cars with an option for the additional 200 cars at the same price.

Mr. EGBERT. It might be good to put that into a framework in which I think we could all be talking about the same thing. What happened was that rather than accept the option which required that, we take the 200 cars at which time, of course, we were obligated. In accepting that option we would then, with the Federal procurement regulations, have had to have the money available to make that commitment.

We chose, because of the price of the car and the quality of the car was so good, to take the option. But to take that option and negotiate this in four increments. One of those increments is in each of the funding packages for the fiscal year 1982 and it again appears here in this year 1983. The last one will be in 1984. We had to do that in order to be able to effectively use our money and be able to really take the whole option.

Senator ANDREWS. You are telling the committee that you did not let the option expire?

Mr. EGBERT. No; we did not.

Senator ANDREWS. And that you did secure the additional 200 cars at the best cost contract available to you?

Mr. EGBERT. Yes.

Mr. PAGE. Yes, sir.

Senator ANDREWS. It would be interesting to see your specific comments on the GAO information.

Mr. PAGE. I am even more interested to see the GAO information.

[CLERK'S NOTE.—See the attached letter from the chairman, which provides a detailed factsheet on the procurement process and points out that the approach used in the procurement of the Breda cars was the most cost-effective approach.]

April 14, 1982

Mr. Richard Page
General Manager
Washington Metropolitan Area
Transit Authority
600 5th Street, N.W.
Washington, D. C. 20001

Dear Dick:

It was a pleasure to have you come before the Subcommittee last month and explain Metro's program and concerns.

I wanted to share with you the information provided by the General Accounting Office as we agreed at the hearing. Enclosed you will find GAO's response to our request for an explanation of the difference between the two scenarios. Their explanation backs up what you described to be the case at the hearing regarding the timing of the sale of the cars.

The manner in which GAO's information was originally presented to the Subcommittee was misleading and incomplete in that it implied that the responsibility for the mismanagement belonged to WMATA. It is now clear that GAO had intended that if there was any mismanagement, the blame lay with UMTA, not WMATA.

Thank you for your cooperation and that of your staff, Messrs. Boleyn and Bennewitz in clarifying this misunderstanding.

Best regards.

Sincerely,

Mark Andrews, Chairman
Senate Appropriations Subcommittee
on Transportation and Related
Agencies

FACT SHEET

The following information is provided in response to Ms. Grace Crunican's request to clarify background data for questions furnished to the Senate Appropriations Committee, Subcommittee on Transportation prior to its hearings on March 12, 1982. The questions were provided for use in Urban Mass Transportation Administration (UMTA) hearings and were intended to explore UMTA's role in the Washington Metropolitan Area Transit Authority's (WMATA) procurement of rapid transit cars and its actions to avoid cost increases.

WMATA contracted with Breda Costruzioni Ferroviarie S.p.A. of Pistoia, Italy for the manufacture and delivery of 94 rapid transit cars. This contract contained an option for the purchase of up to an additional 200 cars. According to WMATA officials, WMATA was unable to exercise the contract option because Federal funding was not available. Therefore, they negotiated an option consisting of four incremental purchases for the 200 cars. This resulted in increased costs of $16.5 million.

The furnished background data stated that:

> "WMATA's contract with Breda was to buy 94 cars with an option for an additional 200 cars at the same price."

The unit price for the initial 94 cars was $1,583,840 per married pair. The option terms provided for a constant unit price of $1,593,860 if the full 200 additional cars were purchased. In contrast, the renegotiated option has varying unit prices for each of the four incremental purchases, as shown below:

OPTION PURCHASE

	Number of Cars	Unit Price Per Married Pair (note a)
Lot 1	70	$1,694,651
Lot 2	36	$1,737,415
Lot 3	60	$1,796,818
Lot 4	34	$1,850,236

note a -- The average cost per married pair is $1,769,780.

The background data also said:

> "WMATA allowed the option to expire. . ."

WMATA's right to exercise the original option was to expire on June 28, 1981. But, because funding limitations, WMATA could not exercise the option to procure the total 200 cars pursuant to its terms. Therefore, a renegotiation of price and other terms became necessary, and WMATA negotiated a new option which it signed on June 25, 1981. Thus, the original option was allowed to expire and WMATA purchased the additional 200 cars in four increments at an increased price.

The background data mentioned that:

> "WMATA. . . then issued a new sole source contract for the 200 cars to be purchased in four separate buys, each contingent on available funding."

According to WMATA officials, the option in the original contract was to give them the opportunity to acquire additional cars from the same manufacturer who would be in a position of maintaining production continuity and avoiding start-up costs and engineering development. When WMATA was unable to exercise the option, its officials determined that their immediate requirements could not be met through a new, competitively advertised procurement. Accordingly, they prepared a sole source justification which they submitted to UMTA so that they could continue dealing with the same contractor.

Under the multi-year procurement process used in the new negotiated option, WMATA included four separate increments into the agreement, each subject to the availability of funds.

The background information also said:

> "The piecemeal procurement increased costs $16.5 million over the expired option buy."

The difference in price between WMATA's original option for 200 cars and the new option is $16,558,807 as shown below:

Original Option		New Option
$159,386,000	Lot 1	$ 59,312,785
	Lot 2	31,273,470
	Lot 3	53,904,540
	Lot 4	31,454,012
		$175,944,807

New Option	$175,944,807
Original Option	-159,386,000
Difference	$ 16,558,807

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

General Background

The Washington Metropolitan Area Transit Authority (WMATA) is building and operating the Washington Regional Rapid Rail Transit System, commonly called METRO. Currently, it has 300 subway cars built by Rohr but to expand the transportation system, WMATA contracted with Breda Construzioni Terroviarie, an Italian firm, for an additional 294 cars at a cost of over $235 million. The Urban Mass Transportation Administration (UMTA) is funding 85 percent of the cost, about $199 million, through an urban mass transportation improvement project capital grant. The local jurisdictions of Washington, D.C., Maryland, and Northern Virginia, are financing the balance (approximately $35 million).

1. Acquisition Strategy

WMATA's contract with Breda was to buy 94 cars with an option for an additional 200 cars at the same price. WMATA allowed the option to expire, then issued a new sole source contract for the 200 cars to be purchased in four separate buys, each contingent on available funding. The piecemeal procurement increased costs $16.5 million over the expired option buy.

a. What was UMTA's role in this procurement decision?

b. Since $14 million of the $16.5 million increase represents Federal expenditure, what oversight or influence did UMTA provide to avoid this increase?

2. Slippages in the Delivery Schedule

From the original date of June 1981, the car delivery schedule was extended 13 months to July 1982, due to the breakdown of a subcontractor's extruding press. Two recent events indicate that additional delays are likely. The transportation system cannot be extended as planned with new stations opening in December 1982, unless WMATA receives the new cars in July.

a. Explain UMTA's strategy for monitoring WMATA's subway car acquisition.

b. What criteria does UMTA use to evaluate WMATA's requests for funds?

c. Is WMATA promptly and completely apprising UMTA of problems with the acquisition?

  1. If not, what action is UMTA taking to resolve the situation?

d. What are the current projected car delivery dates and station opening dates?

e. Other than the recent fire in a subcontractor's plant and a strike at Westinghouse, a subcontractor, are there any major problems which could delay delivery?

3. Failure of Breda Construzioni Ferroviarie to Arrange for Timely Assembly of the Subway Cars

Assembly of the subway cars is a crucial aspect of this acquisition. Failure to choose a qualified assembler in a timely manner could result in the cars not meeting performance, safety, and reliability requirements and not being delivered on schedule.

The Buy America Act requires that the cars be assembled in the United States and Breda, under contract to WMATA, is required to choose the assembler. Although it normally takes six to nine months to ready a plant for assembly, Breda had not selected an assembler as of January 22, 1982, six months before delivery is due.

a. Has an assembler been selected?

  1. If not, what is causing the delay?

    a. How will this affect the car delivery date? The station opening date?

    b. Will testing schedules be reduced?

  2. If so, who is the assembler?

    a. If the assembler is Mechtron of Delaware, which is in bankruptcy proceedings, are there contingency plans in case Mechtron cannot complete assembly of all cars?

    b. Considering the 6-9 month leadtime needed to prepare for assembly, can the cars be assembled in time to meet the July 1982 delivery date?

Affect of Late Delivery On UMTA Financing of Subway Cars

WMATA is purchasing an initial 94 cars with an additional 200 cars in four increments, each of which is contingent upon UMTA granting the Federal share of funding.

a. What action will UMTA take if the cars are not delivered on time?

b. Will UMTA fund the remaining segments of the 200 car purchase if the first 94 cars are not delivered on time or do not meet contract performance requirements?

c. If the cars are delivered late, what steps will UMTA take to ensure that adequate testing and evaluation is performed before the cars enter revenue service?

5. WMATA Provision for Training Subway Car Operators

On January 13, 1982, WMATA suffered its first fatal subway accident, in which three persons died. WMATA officials identified the cause as human error by subway employees. Although the train was moving slowly, the impact caused extensive damage to the car and several people were injured by the collapase of the car.

a. What additional steps are being taken by UMTA to ensure that operating personnel receive adequate training before the new Breda cars, some of which have an entirely new propulsion system and all of which are structurally different from the current fleet, enter revenue service?

b. The accident tragically highlights the human costs of improper operation, whatever its cause. What additional action is UMTA taking to ensure that, through adequate and comprehensive test and evaluation, the new subway cars will be safe and reliable when they enter revenue service in public transportation?

SUBMITTED QUESTIONS

Senator ANDREWS. I would imagine that that will be available to you in a matter of moments. Again, I appreciate your coming this morning. We have a number of questions for the record. I have some questions also to be answered in the record by other members of the subcommittee. We would appreciate your candid response to our questions. I think you have made a good record this morning.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

QUESTION 1: Rail Accident

a. Several reports of the accident critized the length of time it took to evacuate passengers from the accident. What was the cause of this delay? What has been done to reduce future evacuation times?

b. How was APTA's special panel selected? To whom do they report? Who pays for their salaries and expenses while investigating?

c. In a January 15, 1982 editorial the Washington Post asserted the coordination between Metro and Federal agencies on early release has never been very good. To what extent is this a problem? What are the implications of not having adequate notice for early release? What has been done to correct the situation?

d. Do you consider the lack of coordination with the Federal agencies (if that is the case) as any part of the cause of the accident? Is there any liability on the part of the Federal government for not notifying you?

e. Please recap for the record the sequence of events leading to Metro's fatal accident on January 13, 1982.

f. Provide for the Record copies of APTA's Report and Part I of the in-house investigative report.

ANSWER 1a: Evacuation of the fully loaded train involved in the January 13 accident took 51 minutes from the moment of derailment to evacuate the ambulatory but only 36 minutes from the time the transit policemen were given the go-ahead to evacuate the train. No passenger injuries resulted during the evacuation. Since the passengers on this train were in no immediate danger, passengers were not evacuated until Metro and Fire Department personnel arrived to assist and direct a controlled evacuation.

The Authority's procedure for evacuation includes several methods. Method chosen depends on the location of the train, on the circumstances that precipitated the evacuation, the length of the train and the passenger load. The safest method of evacuation is always through the side doors at a station platform. For this reason, every effort is made to move the train to a station platform before evacuating the passengers. The methods that are used in order of preference are

1. Move affected train to station to allow side door evacuation;
2. Uncouple unaffected cars, after transfer of passengers, and move unaffected cars to station.
3. Use "rescue train" to move passengers to station.
4. Close-In evacuation from trains behind disabled train which is a short distance from station by walking passengers through close-in train to station platform.
5. Evacuation of a train partially in a station by use of the side doors of the cars that are in the station.
6. Last resort--evacuation to right-of-way. While use of this method is preceded by shutting-off all traction power,and movement of trains, it is a last resort since it can expose passenger to the 750 volt third rail and

underdoor collector shoes, train traffic on adjacent tracks, and an unfamiliar environment. When this method must be used and passengers on the affected train are not inimmediate danger,passengers are not evacuated until Metro and Fire Department personnel arrive to assists and direct a controlled safe environment.

Evacuation and passenger information programs were under review by a special team appointed by the Assistant General Manager of Transit Operations before the January 13 accident. The APTA Board of Inquiry and the internal Safety Investigation Committee, which includes a representative of the local fire departments, are reviewing and will make recommendations on these items. Action will be taken to improve these programs in a way that will inform and aid passengers while making them aware of the third rail, collector shoe, and other hazards involved in evacuation to the right-of-way.

ANSWER 1b : The APTA panel was selected by a list of names recommended by Mr. Jack Gilstrap, Executive Director of APTA. Mr. Gilstrap was contacted by General Manager Page immediately following the accident and the panel was chosen that evening.

The panel reported directly to General Manager Page.

The Authority paid for all travel and living expenses incurred during the panel's investigation.

ANSWER 1c & 1d: The Federal Government and the District Government tries to act in concert in weather-related dismissal decisions with notification through the Mayor's Command Center.

On January 13 a staff member of the Office of Personnel and Management (OPM), new to this procedure, called before noon to ask what the procedure was, and what effect an early dismissal by the Federal Government would have.

The history of previous cooperation was briefly outlined, as well as the difficulty and impossibility of quickly mounting rush-hour transit service, particularly in the bus area, and we urged against "early out". However, early dismissal was authorized.

The overload of trains, along with the severe weather conditions, certainly exacerbated an already difficult situation. As to liability, to our knowledge, the Federal Government can not be held legally liable for their decision to dismiss employees early.

ANSWER 1e : Attached is an article written for Mass Transit which summarizes the January 13 accident.

ANSWER 1f : Attachments as requested.

news

Day of disaster for Washington: Metro crash kills three, injures 25

by Tom Crosby

At exactly 4:31 p.m. on Jan. 13—just 27 minutes after the worst air disaster in Washington's history—the perfect six-year-old record of operating safety on the city's subway system came to a tragic end.

A six-car train, crowded beyond its "crush load" design, derailed underground four blocks from the White House and the last car was dragged 60 feet sideways over a crossover switch until it was impaled by a floor-to-ceiling concrete divider between the tracks.

Three people died, crushed in their seats between the concrete divider and the twisted aluminum, shattered glass and contorted interior plastics of the train. Twenty-five more were injured.

It was the first time since Metro began operating March 29, 1976 that anyone had been injured due to Metrorail operations. (Track suicides and injuries aboard escalators and elevators are not counted as "operational" accidents).

Rescue operations were hampered by a citywide gridlock of cars jammed bumper to bumper on snow slicked streets. City rescue vehicles were scarce because many had already responded to the site of a downed Air Florida 737 jet, which struck the 14th Street Bridge connecting the city to Virginia, shearing off the tops of several cars before plunging into the icy Potomac River with 79 people aboard. Only five survived.

Nine days after the Metrorail accident, Metro General Manager Richard S. Page called it a "fluke"—the result of human error. It came on a snowy day when the federal government, against the advice of Metro and the D.C. Department of Transportation let 400,000 federal workers leave work at 2:30 p.m., creating crush loads on a subway system operating non-peak hour service and snarling traffic with impatient commuters anxious to return home before the steadily falling snow reached its predicted eight-inch depth.

Less than three hours after the crash, Page, with the help of Jack R. Gilstrap, executive vice president of the American Public Transit Association (APTA), began assembling a crack blue-ribbon investigating team of transit experts.

The panel consisted of Francis A. Gorman, vice president and general manager of the Port Authority Trans-Hudson Corp., Charles Kalkhof, vice president and general manager of the New York City Transit Authority, George Krambles, a management consultant (and former head of the Chicago Transit Authority), and William B. Fleisher, chief transportation officer for San Francisco's Bay Area Rapid Transit District. Assigned to them was Samy E. G. Elias, Metro's newly hired director of the Office of Transit Engineering and Evaluation.

While it may take months to decipher every cause of the accident, the panel issued a preliminary report on Jan. 21 with this conclusion: The accident resulted from human error. They suggested, among other things, that Metro improve its training and re-training of train operators and track supervisors, refine the rules and procedures for manual train movements and improve maintenance problem reporting.

Here is what the preliminary investigation found happened.

● 3:47 p.m.—Northbound train 403 inexplicably loses air pressure while stopped at the Federal Triangle Station and the brakes automatically lock. The packed train is evacuated and Metro begins wrong railing (using a single track) around the stalled train by using two crossovers above and below Federal Triangle.

● 4:15 p.m.—Four of the six cars get enough pressure built up through the compressors to move the train under its own power to the New Carrollton maintenance yard for repairs.

● 4:17 p.m.—A track supervisor is told to remove the wooden blocks placed in the crossover switches as a precaution to the switch slipping and restore the two tracks for "normal" operations.

● 4:19 p.m.—The supervisor tells central control he is having problems with a switch on the the northbound track.

● 4:20 p.m.—Central control is able to electronically activate the switch.

● 4:22 p.m.—The supervisor tells central control the two northbound switches are in the proper position. During the next five minutes two northbound trains travel past. Central tells the supervisor to check the southbound switches and make sure they are set for normal, double track operation.

● 4:25 p.m.—The supervisor tells Central, "Roger, they're tucked."

● 4:27 p.m.—Train 410 arrives at the crossover. The train operator has already been told to obey a supervisor in the area. The operator sees double red lights meaning do not proceed, but he is waved on by the supervisor.

● 4:28 p.m.—The southbound train enters the crossover, and the first set of wheels under the first car reach the northbound track. The supervisor hollers "Hold it, hold it," into the walkie talkie he is using to talk to the operator and the train stops. Passengers say later they felt a double "thump, thump."

● 4:29 p.m.—The supervisor says the switch "looks funny" and tells central and the operator he is going to the back of the train and reverse direction. Investigators say the front wheels of car 1029 had already jumped over the closed north-

[redacted]

Metro Public Affairs Director Cody Pfanstiehl examines car crushed in fatal accident

AP Photo

bound switch, but had ended up on the northbound track. The train was not yet derailed.

- 4:31 p.m.—The supervisor begins moving the train at an estimated speed of 8 mph. Car 1029 travels three or four feet with its rear wheels (formerly front) on the northbound track, while the other wheels follow the diagonal crossover track. The rear wheels derail under the torque and, derailed, run on the ground parallel to the northbound track. Central control hears the operator yell "stop," but he does not push the red "mushroom" button that would stop the train. It takes 13 seconds before car 1029 hits the concrete abutment, snapping its power cables and causing an immediate loss of power and lights in the train. The brakes were never used, investigators said.

- 4:32 p.m.—Terry Rychlik, a Metro plainclothes policeman, opens a door in another car of the train, and goes to wrecked car where he has difficulty discovering the true extent of the passengers' injuries because the car, designed for a crush load of 200 to 225, has an estimated 250 aboard.

- 4:34 p.m.—Rychlik calls central and requests an ambulance. He estimates at least four people injured.

- 4:35 p.m.—Central requests an ambulance from the D.C. Fire Department.

- 4:36 p.m.—The fire department requests more details, but has already dispatched an ambulance.

- 4:42 p.m.—Metro requests more assistance. They now know that dozens may be trapped inside the train and that more than four are injured.

- 4:47 p.m.—Central gives the okay to evacuate the train, after confirming that all third rail power is off. Page later called this delay "too long."

- 4:53 p.m.—Engine Company 3 arrives at the scene and begins helping evacuate the injured. Several people fell through the floor of the car, which buckled and split upon impact. Dr. John Mather, a Veterans Administration doctor in another car, helps with the injured.

- 5:23 p.m.—All ambulatory people on train 410 are evacuated.

- 6:07 p.m.—All the injured are removed from car 1029, including the bodies of Mildred M. Morgan, 71, and Mary L. O'Meara, 25, co-workers at the Overseas Education Association, who had been sitting together in a side seat in the middle of the train. Mariano Cortez, 46, an Agriculture Department auditor, is pronounced dead at the hospital.

In press conferences held after the accident, Page apologized to those injured and to the families of those killed.

"We have had a serious accident," Page said. "We also have a remarkable subway system and an excellent group of employees. We want to keep it as safe as it is. There is no question that this experience, as unfortunate as it is, will help us learn a lot."☐

Tom Crosby, former transportation writer for the Washington Star, *now works for Channel 4, an NBC affiliate in Washington, D.C.*

SUBJECT: Investigation Into the Derailment of Train No. 410 on January 13, 1982

DATE: February 22, 1982

FROM: Samy E. G. Elias Elias
Chairman, Safety Investigating Committee

IN REPLY REFER TO:

TO: Richard S. Page
General Manager

Pursuant to your memorandum of January 15, 1982 establishing a Safety Investigating Committee to inquire into the accident occurring on January 13, 1982 at the interlocking between the Federal Triangle and Smithsonian Stations, we submit the attached report.

It is the intention of this Committee to divide our investigation into three parts. Part I, which is attached hereto, deals with what happened and why the accident occurred. Part II will deal with secondary facts, such as evacuation of passengers, various reports from subcommittees[1] on specific areas including training, the electrical arcing which occurred after the accident, and recommendations related to emergency facilities and equipment. Part III will deal with recommendations for new procedures where we find no procedures existing or where present procedures are unclear.

In summary it would appear that the immediate causes of the accident were:

1. The failure of Supervisor James S. Davis to crank and block switch 1A as a part of the instruction given to him to normal and block all switches. Other actions or inactions by Supervisor Davis were also causes of the accident.

2. The failure of Train Operator Michael J. Greene to give full time and attention to his duties in that he failed to inspect the rail, he ran the train through an improperly aligned switch (1B), and he failed to take appropriate emergency action to avoid the accident (failed to push the emergency stop button).

3. The failure of the Operation Control Center (OCC) to ascertain the exact position of the train and to set up a permissive block[2] prior to allowing Supervisor Davis to pull back the train. All OCC personnel were involved in these various acts; however, the key individuals were: Kenneth G. Banks and Paul T. Hobgood, Jr.

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[1] Attachment 1.

[2] A permissive block refers to the stopping of on-coming traffic, the checking of switches, and the insuring of safe train movement distance for a train travelling in the reverse direction as per WMATA SOP 1, paragraph 28 and SOP 4, Section C, paragraphs 6-9.

There are several other items that will be addressed in more detail in subsequent reports. Since they are quite urgent, we believe they should be brought to your attention immediately, they are:

1. You will be receiving a detailed evaluation of training. However, our initial impression is that training is erratic, inadequate, and lacks direction and the Authority cannot escape responsibility. The instructors appear to be capable. However, budgetary restrictions have hindered the programs of retraining, testing, and recertification.

2. The chain of events began on January 10, 1982 when a fuse controlling switch 1A opened. The open fuse prevented the return of switch 1A to a normal position by remote command when requested on January 13, 1982. During the period of January 10, 1982 to the time of the accident on January 13, 1982, a type 1 alarm indicating D02 TRAIN CONTROL ROOM POWER FAILURE appeared fourteen (14) times on the cathode ray tube (CRT) and/or appeared on the train alarm log (computer printout). This alarm was caused by the open fuse. No entry was found in the Maintenance Control records for this alarm; therefore, no maintenance was initiated. We strongly recommend that an immediate investigation be started by the Office of Rail Service to determine the person or persons responsible.

3. Although the derailment was reported to the OCC at 4:34 PM, some of the power was not brought down for approximately twenty-five (25) minutes. It appears that no one at the OCC made a correct assessment of the power configuration at the scene. Furthermore, late in our investigation we discovered that a traction power breaker automatically reclosed thirty-seven (37) minutes after the accident causing a full restoration of power below the disabled train (the probable reason for the reported arcing and sparks). In order to override the automatic reclosure features of these breakers the power must be commanded open by the action of the OCC. Our investigation tends to show that although such an action was requested, someone failed to follow through. We strongly recommend that an immediate investigation be started by the Office of Rail Service to determine the person or persons responsible.

4. It further became apparent to the Committee that there is an absence of design consistency in some subsystems which could have drastic implications in future emergency situations. An example of this is the design of the Emergency Trip Station (ETS) System throughout the rail system. Whereby sometimes the ETS System controls the power of two adjacent sections of track and in other cases controls the power of one section of track without any clear indication of what area it controls. In view of the expected doubling

of the rail system in the next four years, we recommend an immediate task force to review consistency in the power system.

It appears to this Committee that there were certain improper actions or failure to act in connection with events occurring after the accident. These did not contribute to or cause the accident and are not, therefore, properly part of the attached report. These will be addressed in Part II and will probably include additional wrongful conduct by WMATA employees which will require your personal attention.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
WASHINGTON, D.C.

INVESTIGATION OF
DERAILMENT OF TRAIN NO. 410
ON
JANUARY 13, 1982

PART I

SUBMITTED BY
SAFETY INVESTIGATING COMMITTEE

Samy E. G. Elias
Chairman
Office of Transit Engineering
and Evaluation

John J. Flynn
Vice Chairman
Office of Transit Engineering
and Evaluation

Peter J. Ciano
Peter J. Ciano
Office of General Counsel

Martin J. Lukes
Office of Engineering

John Kirin
John Kirin
Office of Rail Service

C. R. Hayes
Clyde R. Hayes
Office of Rail Service

William E. Skelton
William E. Skelton
Office of Rail Service

William D. Kiley
William D. Kiley
Office of General Maintenance

Walter A. Wise, Jr.
Bethesda Fire Department

SUBMITTED TO

Richard S. Page
General Manager

The memo of January 15, 1982 establishes this Committee and charges it with the responsibility to investigate the accident which occurred on January 13, 1982 at the interlocking between Federal Triangle and Smithsonian Stations. At the location and time of accident the train derailment caused the death of three (3) passengers. In addition, twenty-five (25) passengers were injured and taken to the hospital.

As of February 11, 1982 our Committee interviewed twenty-four (24) witnesses[3] on various aspects of the investigation into what happened and why it happened. In addition, voluminous records and reports were reviewed by the Committee including the ones requested by the American Public Transit Association Board of Inquiry and the National Transportation Safety Board.[4] Furthermore, all the Committee members have visited the scene of the accident.

While not directly contributing to the accident or the cause of it, it should be noted that the weather conditions, the early release of Federal government employees, and the airplane crash on the 14th Street Bridge on that day may have contributed to the unusual conditions that existed immediately prior to the accident.

It is the intention of this Committee to divide our investigation into three parts. Part I, which is attached hereto, deals with what happened and why the accident occurred. Part II will deal with secondary facts such as evacuation of passengers, various reports from subcommittees on specific areas including training, the electrical arcing which occurred after the accident, and recommendations related to emergency facilities and equipment.

Part III will deal with recommendations for new procedures where we find no procedures existing or where present procedures are unclear.

The following is a chronological sequence of events:

On fourteen (14) occasions between January 10, 1982 at 2:23 PM and January 13, 1982 at 10:08 AM an alarm (D02 TRAIN CONTROL ROOM POWER FAILURE) appeared on the Cathode Ray Tube (CRT) and/or was printed on the logger. This alarm was the result of an open fuse at switch 1A at the Smithsonian interlocking. The CRT is physically located in the Operation Control Center (OCC). The open fuse rendered it impossible for the OCC to normal switch 1A after it was commanded reverse on the day of the accident. The following is a list of the times the alarm appeared on the CRT or on the logger and the name of the employee on duty:

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[3] Attachment 2.

[4] Attachment 3.

	Date	Time	Employee on Duty
1.	Jan. 10, 1982 (Stayed on the CRT screen 4-1/2 minutes.)	2:23 PM[5]	Janet Mullen
2.	Jan. 10, 1982 (Printed on the logger.)	11:59 PM	David Meleney
3.	Jan. 11, 1982 (Stayed on the CRT screen 1-3/4 minutes.)	9:08 PM	Tom Harmon
4.	Jan. 11, 1982 (Stayed on CRT screen 2 minutes.)	9:35 PM	Tom Harmon
5.	Jan. 11, 1982 (Was on CRT screen momentarily.)	9:49 PM	Tom Harmon
6.	Jan. 11, 1982 (Stayed on CRT screen 3-1/2 minutes.)	9:51 PM	Tom Harmon
7.	Jan. 11, 1982 (Printed on the logger.)	9:58 PM	David Meleney
8.	Jan. 12, 1982 (Printed on the logger.)	Midnight	A. J. Collins
9.	Jan. 12, 1982 (Stayed on CRT screen 3 minutes.)	12:10 PM	Gerald Kopfle
10.	Jan. 12, 1982 (Stayed on CRT screen 1-3/4 minutes.)	12:24 PM	Gerald Kopfle
11.	Jan. 12, 1982 (Stayed on CRT screen 1-1/4 minutes - removed by computer failure.)	9:46 PM	Tom Harmon
12.	Jan. 12, 1982 (Restart of computer. Stayed on CRT screen for one (1) minute.)	9:47 PM	Tom Harmon
13.	Jan. 12, 1982 (Printed on the logger.)	Midnight	David Meleney
14.	Jan. 13, 1982 (Stayed on CRT screen 1-1/2 minutes.)	10:19 AM	Gerald Kopfle

None of the above instances appear in the records of Maintenance Control. Normal procedure would require the OCC to report this type of alarm to Maintenance Control for recording and repairs. In addition the log is turned over to Maintenance Control daily. Prior to the accident these records were not reviewed by Maintenance Control. This Committee was unable to determine if there was a requirement for Maintenance Control to review the logs. Although there were six (6) occasions during this period when technicians were in the Train Control Room, where the fuse is physically located, the Preventive Maintenance Inspection (PMI) does not require them to inspect any device that is monitored by the OCC; therefore, the open fuse was not discovered.

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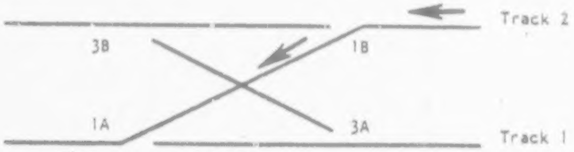
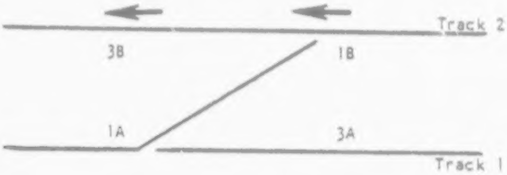
[5] All times are rounded to the nearest minute unless otherwise noted.

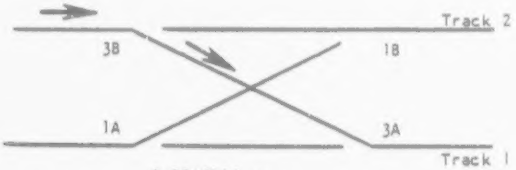
At 3:45 PM Train No. 403 was southbound (toward Virginia) on Track 2 at the platform in the Federal Triangle Station when the train experienced problems which would not allow the train to move. The OCC called switch 1 at 3:52 PM into a reverse position to allow six trains on Track 2 to crossover to Track 1 and be single-tracked through Federal Triangle Station and on to Virginia. After the six (6) trains successfully single-tracked through Federal Triangle Station OCC attempted to normal switch 1 (4:06 PM) to allow northbound trains to resume normal operation. At that time (4:06 PM) switch 1 went out of correspondence (1A reverse and 1B normal), and no signal at that interlocking could be cleared. Concurrent with the single-tracked operation Supervisor James Davis and Car Equipment Mechanic Thomas Berry isolated the problem by 4:10 PM so they could move Train No. 403 northbound on Track 2. Switch 3 was called into reverse



1 REVERSE
(FOR SINGLE-TRACK AROUND 403)



1 OUT OF CORRESPONDENCE



3 REVERSE -
(CROSSOVER 403 TOWARD NEW CARROLLTON)

by the OCC to allow Train No. 403 to crossover from Track 2 to Track 1 (northbound to Maryland). The OCC attempted to establish a crossover route over switch 3 at 4:11 PM, but the route failed to clear because switch 1 remained out of correspondence. Supervisor Davis, on board Train No. 403, which had moved up to the interlocking, was instructed by the OCC at 4:13 PM to get off the train and block switch 3 (3B and 3A) in the reverse position. At 4:15 PM Train No. 403 moved from Track 2 to Track 1 through the interlocking over switch 3 and on to New Carrollton.

At 4:15 PM the OCC instructed Supervisor Davis to stay at the interlocking until Automatic Train Control (ATC) personnel arrived. At 4:16 PM he was further instructed to unblock switch 3, locate a crank, and to normal and block the entire interlocking. The OCC advised Supervisor Davis that it was unable to normal switch 1. Supervisor Davis acknowledged this message at 4:17 PM.

When Supervisor Davis could not normal switch 3, the OCC indicated that it would try to normal the switch remotely which was accomplished. The OCC instructed Supervisor Davis to block Track 2 at switch 3B and 1B in the normal position and to verify that the switch points were "tucked under". Supervisor Davis acknowledged this message at 4:20 PM.

At 4:22 PM Supervisor Davis advised the OCC that switches 1B and 3B were "tucked" and blocked on Track 2. The OCC advised Train Nos. 904 and 415, which were southbound on Track 2 in the vicinity of the Smithsonian Station, to proceed through the interlocking if they had a straight through alignment. At 4:22 PM Train No. 904 proceeded through the interlocking in a normal direction and at 4:24 PM Train No. 415 followed. The OCC inquired of Supervisor Davis whether Track 1 was blocked, and they were informed by Supervisor Davis that all switches in the interlocking were blocked and "tucked." At 4:24 PM the OCC instructed Supervisor Davis to remain in the interlocking and flag trains through, and he acknowledged.

At 4:27 PM the OCC advised Train Nos. 410 and 906 that a supervisor was in the interlocking to instruct them. Only Train Operator Michael Greene on board Train No. 410 acknowledged this message.

At 4:27 PM Supervisor Davis authorized Train Operator Greene, who had stopped the train prior to entering the interlocking, to proceed through the interlocking.[6] This is the proper procedure when approaching a red signal. Train Operator Greene acknowledged Supervisor Davis' message. At 4:28 PM Train No. 410 moved into the interlocking with switch 1A in the reverse

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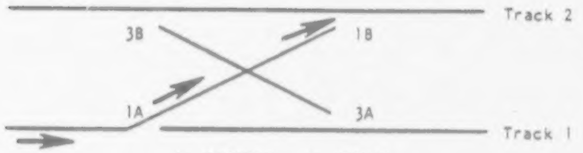
[6] The evidence on this point is from the Train Operator Greene and confirmed by Supervisor Davis. The analysis of the computer records indicates that the train probably did stop, but does not confirm it beyond a doubt. No other witnesses remembered whether the train stopped before it entered the interlocking.



1A REVERSE - 1B NORMAL
410 FLAGGED THROUGH INTERLOCKING

position.[7] Normal procedure would require Train Operator Greene to observe that the switches were properly aligned and blocked. Supervisor Davis, who was on the opposite side of the concrete support wall located between Tracks 1 and 2 with his back to the interlocking, turned around, noticed the train in the crossover, and instructed Train Operator Greene to stop (this message was repeated twice) at 4:28 PM. Train Operator Greene acknowledged these messages twice. When the train came to a full stop, axle 1 of the front truck of the lead car (car no. 1029) had passed an improperly aligned switch (1B) and came to rest on the rail just beyond the switch point. The rear axle of the front truck stopped in the switch point, therefore, at least one axle had "trailed" the switch; i.e. gone through an improperly aligned switch.

At 4:28 PM Supervisor Davis advised the OCC that the "switch doesn't look right", and he would pull back the train and try again. Operating rules require that a train shall not be reversed if it runs through an improperly aligned track switch. In addition, Standard Operating Procedures require that a train may not be moved against the established direction of traffic until switches are visually checked and a permissive block established. The OCC acknowledged this message without determining the exact location of the train and without properly establishing a permissive block. Supervisor Davis did not reexamine the switches as required. At 4:29 PM at the direction of Supervisor Davis, Train Operator Greene "keyed out", i.e. disabled his cab while Supervisor Davis boarded the rear car and "keyed up", i.e. enabling the train.

At 4:30:06 PM Supervisor Davis began to move the train toward the Federal Triangle Station. The front truck of car no. 1029 derailed almost immediately. At 4:30:20 the traction power breakers tripped out as car no. 1029 was dragged sideways through the interlocking over the

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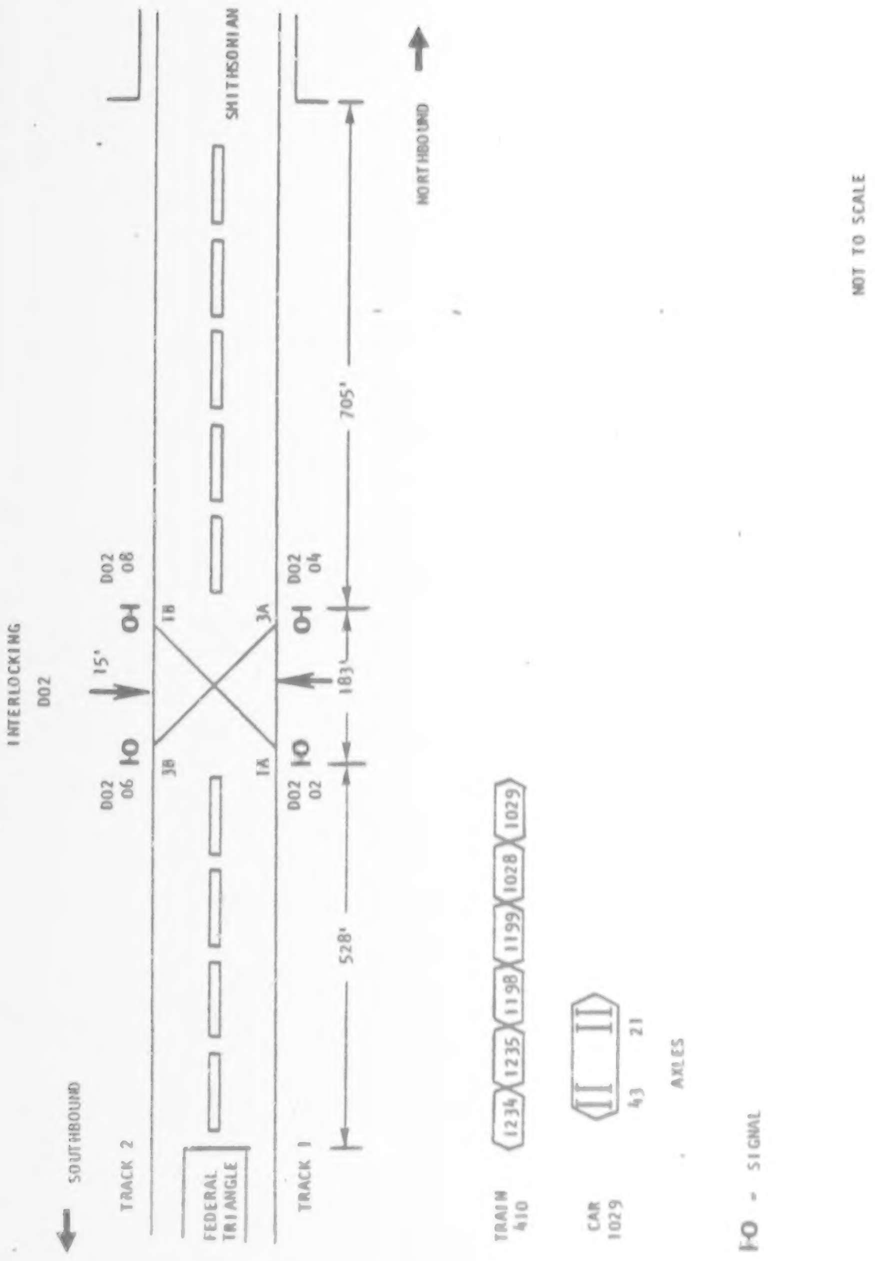
[7] The evidence is overwhelming that the switch was not blocked and was lying in the reverse position. Only Supervisor Davis stated that the switch was blocked. All other witnesses and photographs taken after the accident establish that the switch was unblocked and in the reverse position. If the switch was blocked normal as Supervisor Davis indicated there would be no way for the block to slip out, and it would be impossible for the train to enter the crossover track. No one, except Supervisor Davis, was located in the interlocking immediately prior to the accident.


INTERLOCKING
D02
SOUTHBOUND
TRACK 2
FEDERAL TRIANGLE
TRACK 1
SMITHSONIAN
NORTHBOUND
D02 06
D02 08
D02 02
D02 04
3B
1B
1A
3A
15'
183'
528'
705'
TRAIN 410
1234
1235
1198
1199
1028
1029
CAR 1029
43
21
AXLES
- SIGNAL
NOT TO SCALE

third rails. At 4:30:23 car no. 1029 struck the center concrete support wall just behind the center door on the left hand side. This wall is located between Tracks 1 and 2. Train No. 410 traveled 153' (one hundred fifty-three feet) at a speed of five (5) to nine (9) miles per hour before hitting the concrete wall.

Transit Police Officer Terry Rychlik, who was riding on car no. 1029 at the time of the accident, notified the transit police dispatcher's office at 4:32 PM by his hand-held radio that there had been a derailment.

At 4:34 PM Supervisor Davis reported to the OCC that there had been a derailment and injuries had occurred.

As a result of the accident three (3) people were killed and twenty-five (25) others were taken to the hospital. Car no. 1029 was damaged beyond repair, and some damage occurred to the track equipment and ATC wayside equipment. This section of the system was closed for several days, and patrons had to be bused around the affected area.

FINDINGS AND CONCLUSIONS

Based on the testimony of the witnesses, the records, and the reports submitted to the Committee, we make the following findings and conclusions as to the causes of the January 13, 1982 accident:

1. As to Supervisor James E. Davis:
    a. He failed to establish a normal alignment through Smithsonian interlocking as instructed by the OCC.
    b. He failed to block switch 1A in the normal position.
    c. He failed to visually check that switch points were "tucked" and that the switches were aligned for the required route on track 1.
    d. He reported erroneously to the OCC that "all switches are blocked and tucked under."
    e. He failed to position himself on the operator's side of Train No. 410 as he signaled the operator to proceed.
    f. He failed to watch Train No. 410 as it entered the interlocking. (As the train entered the interlocking, Supervisor Davis positioned himself on the opposide side of the concrete support wall with his back to the interlocking).
    g. He failed to observe Train No. 410 in the crossover within a reasonable time.
    h. He failed to notify the OCC that Train No. 410 was in the crossover.
    i. He failed to communicate to the OCC that there was an incomplete move of Train No. 410, i.e. the entire train had not gone completely through switch points 1A and 1B.
    j. He failed to ascertain the position of car no. 1029, the lead car on Train No. 410, when it came to a full stop.
    k. He pulled the train back after it had run through an improperly aligned track switch.

2. As to Train Operator Michael J. Greene:
    a. He failed to ascertain his correct alignment.
    b. He passed a double red signal with no block in the switch.
    c. He operated his train through an improperly aligned switch.
    d. He failed to call the OCC or anyone else and advise them that he had proceeded through an improperly aligned switch.
    e. He failed to take appropriate action to stop the movement of the train after it had derailed, i.e. failed to push the emergency stop button.
3. As to the Operation Control Center (OCC):
    a. Various people failed to observe and notify Maintenance Control of the ATC power failure alarm (the open fuse at switch 1A from January 10 to January 13, 1982).
    b. Supervisor Kenneth G. Banks, the radio operator, failed to ascertain the location of Train No. 410 prior to authorizing the reverse movement of the train.
    c. Supervisor Kenneth G. Banks failed to instruct Supervisor Davis to establish a permissive block prior to authorizing Train No. 410 to move against the established direction of traffic.
    d. Assistant Superintendent Paul T. Hobgood, Jr. failed to provide proper direction to the radio operator for controlling the reverse movement of Train No. 410.
    e. In addition to the above, other on-duty OCC personnel share in the responsibility by failing to recognize the severity of the situation and taking appropriate action.

ADDITIONAL INFORMATION

Throughout our deliberations it came to our attention that certain problems needed immediate action. This Committee prepared two memoranda, which are attached hereto and marked Attachment 4 and 5, respectively. Basically, these memoranda deal with:

1. When several layers of supervision are present in the OCC, such as were present on the afternoon of January 13, 1982, there should be a formal, written procedure to insure that everyone knows who is in charge.

2. In case of an emergency, the OCC should immediately order down power in the affected area regardless of whether the breakers are already open or not. The failure by the OCC to command breaker 33 open at the time of the accident, allowed an automatic reclosing of a breaker, thereby restoring third rail power beneath Train No. 410. Power restoration was extremely hazardous to the on-going evacuation.

QUESTION 2: Has your cost-to-complete estimate dropped any as a result of the recession and reduced demands on contractors?

ANSWER : The Authority has not updated the cost estimate to complete the Metrorail system because future funding levels are a key component of making such a projection. The last time a complete system estimate was prepared in June 1980, the total cost was $8.2 billion and the system would be complete in late 1989. Annual funding levels averaged $615 million during the period 1982 to 1985 as compared to the current adopted financial plan averaging $445 million per year during the same period. Under these rather optimistic expectations, the system cost will exceed the sources of funding currently identified, i.e., Interstate funds available to the region and the Stark-Harris bill authorization.

QUESTION 3: Please provide a detailed explanation of the funding sources used by each jurisdiction which fulfills the Stark-Harris "Stable & Reliable" requirements.

ANSWER : As specificed in the Stark-Harris legislation, the Authority, on September 30, 1980, submitted a plan for securing stable and reliable revenue sources in each of the three major jurisdictions. Each jurisdiction has approved legislation to implement this plan. In brief, the plan is as follows:

In Virginia, the Governor and the General Assembly approved the levy of a sales tax on the retail price of motor fuel sold within the Northern Virginia Transportation District. The tax went into effect on July 1, 1980, at a rate of two percent. In addition, new legislation was recently passed which, for the first time, provides funding to Metro from the Virginia Highway Trust Fund. This is explained in more detail in the answers to Question 13.

An estimate of yield is difficult to predict in today's unstable energy environment. Yields are estimated to cover nearly one-fourth of the fiscal year 1982 requirement and approximately 35 percent of the fiscal year 1983 requirement. The Northern Virginia Delegation is now seeking approval from the Virginia General Assembly for an additional statewide gasoline tax with a portion earmarked for mass transit.

In Maryland, the Governor and the General Assembly approved legislation authorizing the "Maryland Transportation Trust Fund" to pay 100 percent of the capital costs of the Washington Suburban Transit District, 75 percent of the Transit District's debt service costs on WMATA revenue bonds, and 75 percent of the Transit District's operating assistance requirements net of Federal operating assistance.

The legislation also specifies that should revenues recover less than 50 percent of costs, the shortfall would be funded by the jurisdictions.

The Maryland Transportation Trust Fund finances all State transportation costs in addition to providing assistance to the Baltimore and Washington area jurisdictions. The revenue sources earmarked for the Fund are:

- o All of the motor vehicle gasoline tax;
- o All fees from oversize and overweight vehicle permits;
- o All revenues of the Motor Vehicle Administration;
- o One percent of the excise tax; and
- o Three percent of the corporate income tax for 1981-1985, increasing to 3.5 percent in 1986 and beyond.

State assistance in fiscal year 1982 will fund $29 million or 71 percent of the $42 million, net operating and debt service assistance allocated to the transit district.

The budget forecast for fiscal year 1983 indicates a Maryland requirement for operating and debt service assistance net of Federal assistance of $50-55 million. Funding from the trust fund will provide $36 million or nearly 70 percent of the requirement.

The District of Columbia has approved "stable and reliable" legislation which establishes a "Metrobus/Metrorail Account" within the District's general fund beginning in FY 1982. Revenues include:

- o Motor vehicle excise tax and registration fees;
- o Sales tax on meals, liquor by the drink, rental of tangible property , parking, and transient accommodations;
- o Gasoline gallonage tax;
- o Parking meter fees; and
- o Real property tax.

The District estimates that these revenue sources would yield $125 million in fiscal year 1983. Operating assistance forecasts indicate that the District's fiscal year 1983 needs for operating assistance will total nearly $100 million net of Federal operating assistance. Thus, the legislation exceeds the requirements for a stable and reliable funding source.

QUESTION 4: Please provide in a comparative format the following information for the past five years: ridership, operating costs, administrative and managerial costs, operating subsidies, and revenues from the farebox.

ANSWER : See attached. Please note that the Authority does not issolate administrative and managerial costs, for bus and rail operations, as separate cost items.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
FY 1983 BUDGET ESTIMATES
METROBUS OPERATIONS
INDICATORS

	FY 1979 ACTUAL	FY 1980 ACTUAL	FY 1981 ACTUAL	FY 1982 AMENDED BUDGET	FY 1983 GMGR BUDGET
Total Bus Miles (000's)	51,875	55,478	54,791	52,773	51,650
Scheduled Bus Miles (000's)	50,990	54,459	53,942	52,300	51,000
Total Passenger (000's)	119,848	149,224	141,411	137,300	136,000
Bus Fleet Size (Year End)	1,826	1,810	1,760	1,736	1,626
Scheduled Buses (Maximum)	1,585	1,585	1,543	1,520	1,452
Total Operating Costs (000's)	$135,366	$ 160,027	$174,810	$197,116	$222,646
Total Revenue (000's)	$ 62,040	$ 70,924	$ 81,568	$ 83,730	$ 88,268
Total Operating Assistance (000's)	$ 73,326	$ 89,103	$ 93,242	$113,386	$134,378
Passenger Revenue (000's)	$ 55,655	$ 63,754	$ 73,919	$ 75,398	$ 80,378
Passengers Per Scheduled Bus Mile	2.35	2.74	2.62	2.63	2.67
Passengers Per Scheduled Bus	75,614	94,148	91,647	90,329	93,664
Percent of Scheduled Buses to Fleet	86.8%	87.6%	87.7%	87.6%	89.3%
Cost Per Total Bus Mile	$ 2.61	$ 2.88	$ 3.19	$ 3.74	$ 4.31

	FY 1979 ACTUAL	FY 1980 ACTUAL	FY 1981 ACTUAL	FY 1982 AMENDED BUDGET	FY 1983 GMGR BUDGET
Cost Per Bus-Total Fleet	$ 74,133	$ 88,413	$ 99,324	$113,546	$136,929
Cost Per Passenger	$ 1.13	$ 1.07	$ 1.24	$ 1.44	$ 1.64
Average Passenger Fare	$ .464	$ .427	$ .523	$ .549	$ .591
Passenger Revenue Per Scheduled Bus	$ 35,114	$ 40,223	$ 47,906	$ 49,604	$ 55,357
Passenger Revenue Per Scheduled Mile	$ 1.09	$ 1.17	$ 1.37	$ 1.44	$ 1.58
Operating Assistance Per Passenger	$ .612	$ .597	$ .659	$ .826	$ .988
Operating Assistance Per Bus-Total Fleet	$ 40,157	$ 49,228	$ 52,978	$ 65,315	$ 82,643
Operating Assistance Per Scheduled Bus	$ 46,262	$ 57,747	$ 60,429	$ 74,596	$ 92,547
Percentage of Operating Assistance to Total Cost	54.2%	55.7%	53.3%	57.5%	60.4%
Percentage of Total Revenue to Cost	45.8%	44.3%	46.7%	42.5%	39.6%
Percentage of Passenger Revenue to Total Cost	41.1%	39.8%	42.3%	38.3%	36.1%
Revenue Car Miles (000's)	12,279	16,741	17,969	17,966	21,095
Total Passengers (000's)	59,173	75,635	75,590	81,500	93,970
Total Operating Cost (000's)	$ 53,852	$ 74,118	$ 90,291	$109,987	$141,913
Total Revenue (000's)	$ 32,166	$ 45,114	$ 54,922	$ 65,039	$ 80,121
Total Operating Assistance (000's)	$ 21,686	$ 29,004	$ 35,369	$ 44,948	$ 61,792
Total Passenger Revenue (000's)	$ 31,097	$ 42,703	$ 52,524	$ 61,590	$ 77,588
Passengers Per Car Mile	4.82	4.52	4.21	4.54	4.45
Passengers Per Scheduled Cars	250,733	317,794	309,795	318,359	309,112
Percent of Scheduled Cars to Total Cars	83.1%	83.2%	84.7%	86.5%	86.9%
Cost Per Car Mile	$ 4.39	$ 4.43	$ 5.02	$ 6.12	$ 6.73
Cost Per Total Rail Cars	$189,620	$259,154	$313,510	$371,578	$405,466
Cost Per Passenger	$ .91	$ .98	$ 1.19	$ 1.35	$ 1.51
Average Passenger Fare	$ .526	$ .565	$ .695	$ .756	$ .826
Passenger Revenue Per Scheduled Car	$131,767	$179,424	$215,262	$240,586	$255,224
Passenger Revenue Per Car Mile	$ 2.53	$ 2.55	$ 2.92	$ 3.43	$ 3.68
Operating Assistance Per Passenger	$ .366	$ .383	$ .468	$ .552	$ .658
Percent of Operating Assistance to Total Cost	40.3%	39.1%	39.2%	40.9%	43.5%
Percentage of Total Revenue to Cost	59.7%	60.9%	60.8%	59.1%	56.5%
Percentage of Passenger Revenue to Total Cost	57.7%	57.4%	58.2%	56.0%	54.7%
Route Miles-One Way	30.8	33.6	37.2	39.2	46.7
Stations	34	38	41	44	51
Mezzanines	49	53	56	59	66
Trains-Maximum	31	38	41	43	53
Total Rail Cars	284	286	288	296	350
Scheduled Rail Cars	236	238	244	256	304
Rush Hour Headways (In Minutes)					
Red Line	5	5	5	5	5
Blue Line	5	6	6	6	6
Orange Line	-	6	6	6	6
Yellow Line	-	-	-	-	6 6

	FY 1979 ACTUAL	FY 1980 ACTUAL	FY 1981 ACTUAL	FY 1982 AMENDED BUDGET	FY 1983 GMGR BUDGET
Non-Rush Hour Headways (In Minutes) Weekday/Sat/Sun					
Red Line	10/10	10/10/10	10/10/10	10/10/10	10/10/10
Blue Line	10/10	12/12/12	12/12/12	12/12/12	12/12/12
Orange Line	-/-	12/12/12	12/12/12	12/12/12	12/12/12
Yellow Line	-/-	-/-/-	-/-/-	-/-/-	12/12/12
Days in Revenue Service Per Week	6	7	7	7	7
Hours of Revenue Service [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

QUESTION 5: Please outline all fare increases you have had over the past two years. What has been the impact of these increases on the percentage of costs recovered from the farebox?

ANSWER : During the past two years, the Authority has implemented three Metrobus and Metrorail fare increases. The table below shows the date the fare increases were implemented, increased revenue generated by the fare change, operating cost for the fiscal year and percentage of costs recovered by the fare increase. It should be noted that the Authority's fiscal year runs from July-June, therefore, two of the three fare changes were only in effect for part of a fiscal year.

Fiscal Year	Date Fare Increase Implemented	Revenue Increase	Total Operating Costs	Percentage of Cost Covered by Revenue Increase
1981	July 1981	$12,811,000	$265,088,060	4.83%
1981	January 1981	4,840,500 1/	265,088,060	1.83%
	TOTAL	$17,651,500	$265,088,060	6.66%
1982	December 1981	$ 5,272,000 2/	$310,397,100	1.70%

1/ Revenue increase for six months.
2/ Revenue increase for seven months.

The attached schedule shows the basic fare structures in effect for Metrobus and Metrorail from 1975 to the current period, and the dates that the fare changes were implemented.

METROBUS FARES

	Sept. 1, 1975		March 21, 1977		July 1, 1977		July 2, 1978		July 1, 1979		June 28, 1980		January 4, 1981		December 5, 1981	
	Peak	Off-Peak	Peak	Off-Peak	Peak	Off-Peak	Peak	Off-Peak	Peak	Off-Peak	Peak	Off-Peak	Peak	Off-Peak	Peak	Off-Peak
D.C. Base	40	40	40	40	50	40	50	40	50	40	55	50	60	60	65	60
Md. Base (2 zones)	50	40	50	40	50	40	50	40	55	40	60	45	60	60	65	65
VA. Base	50	40	50	40	50	40	50	50	55	50	60	60	60	60	65	65
INTERSTATE FARES																
D.C. to Va. Zone G	60	60	70	70	70	70	75	75	85	80	1.10	1.10	1.20	1.20	1.30	1.30
1	75	60	90	70	90	70	1.05	75	1.15	80	1.30	1.10	1.45	1.20	1.60	1.30
2	90	60	1.10	70	1.10	70	1.20	75	1.30	80	1.50	1.10	1.70	1.20	1.85	1.30
3	1.05	60	1.30	70	1.30	70										
4	1.20	60	1.50	70	1.50	70	1.35	75	1.45	80	1.70	1.10	1.95	1.20	2.10	1.30
D.C. to Md. Zone 1	75	60	80	60	80	60	80	60	90	60	1.00	70	1.10	85	1.25	1.00
2	90	60	1.00	60	1.00	60										
3	1.05	60	1.20	60	1.20	60	1.00	60	1.10	60	1.20	70	1.40	85	1.50	1.00
4	1.20	60	1.40	60	1.40	60										
Each add'l zone within Md.	15	-	20	-	20	-	20	-	20	-	20	-	30	-	25	-
Va.	15	-	20	-	20	-	30+15	-	30+15	-	20	-	25	-	30+25	-
Elderly and Handicapped	20	20	20	20	20	20	20+25	20+25	20+25	20+25	20-30	20-30	20-30	20-30	20-30	20-30
State Line Charge - DC/MD	10	10	10	10	10	10	5	5	5	5	20	20	20	20	30 or 20	30 or 20
DC/VA	10	10	15	15	15	10	10	10	15	15	20	20	20	20	30 or 20	30 or 20

METRORAIL FARES

	March 29, 1976															
First three composite miles	55	40			40	40	40	40	45	50	55	50	60	60	.65	.65
Each add'l composite mile	(flat fares)				7.5	3.75	8.5	(flat)	9.5	(flat)	11.5	(flat)	12.5	(flat)	13.0	(flat)
Elderly & Handicapped fares	20				1/2 Peak Fare		1/2 Peak Fare Max. 50		1/2 Peak Fare Ma. 50		1/2 Peak Fare Max. '50		1/2 Peak Fare Max. 60		1/2 Peak Fare Max. 60	

QUESTION 6: Please provide the status of your subway construction by line in terms of time and cost to complete. If completion is based on specific assumptions, please identify those assumptions.

ANSWER : The following table indicates the current sequence of placing the remaining operable segments of the 101-mile Metrorail system into revenue operation, with the currently scheduled operation dates. This assumes that timely delivery of rail cars are made and a construction program which totals $375 million in Federal funding for fiscal years 1983 and 1984 and $415 million for fiscal year 1985. No costs for segments have been provided since a new system cost update has not been completed.

OPERABLE SEGMENT	REVENUE OPERATIONS DATE
C - National Airport to Huntington	Mid 1983
L - Gallery Place to Pentagon	Mid 1983
A - Van Ness/UDC to Shady Grove	Late 1983
K - Ballston to Vienna	Early 1986
B - Silver Spring to Wheaton	1988
E/F - Mt. Vernon Square/UDC to Anacostia	1988
E- Mt. Vernon Square/UDC to U Street	1989
J/H - King Street to Franconia - Springfield	1989
B - Wheaton to Glenmont	1990
E - U Street to Greenbelt	1992
F - Anacostia to Green Line Terminal	1993

QUESTION 7: What plans do you have for a new bus garage in the Springfield area? Since Springfield is fairly removed from the central city, please provide the Subcommittee your analysis of the advantage/disadvantage of such a location. Include such things as anticipated deadhead miles and cost, land acquisition costs, the degree of need for such a facility in the Springfield area, weekend usage, etc.

ANSWER : A. BACKGROUND

Final design for the Springfield Bus Garage is 95% complete and Real Estate acquisition is underway.

A study contracted by WMATA and conducted by Wilbur Smith and Associates to determine the operating and maintenance facilities requirements for the Metrobus Program was completed in 1974. This study recommended that a new garage be constructed in Fairfax County to replace the existing Royal Street Bus Garage. This study was the basis for initiating final design on the Springfield Bus Garage.

Subsequently, an in-house study utilizing operations research techniques to determine the lowest cost for a 8,9,10, and 11 bus garage configurations was completed in late 1981. This study profected a low utilization factor for the Springfield Bus Garage regardless of the garage configuration studied.

A nine (9) garage system excluding Springfield was adopted by WMATA's Board on January 21, 1982. However, the Board invited the Northern Virginia Transportation Commission, in cooperation with WMATA and local jurisdictions, to recommend their own garage configuration for Northern Virginia. This study recommends the following:

- A two garage system including the Four Mile Run Bus Garage and either a garage at the Springfield site or one in Merrifield.
- Land acquisition for the Springfield Garage to be completed.
- EIA for the Merrifield site be commenced to determine the feasibility of this site. If not feasible, the construction of the Springfield Garage will commence as soon as possible.

B. ADVANTAGES/DISADVANTAGES

Advantages

- Located further from residential neighborhood-minimum environmental impact.
- Lower land acquisition cost.
- Lower operating cost compared to keeping all existing garages.
- Weekend usage is possible.
- Will facilitate rapid development of remote Northern Virginia area.

Disadvantages

- Serious access problems until Springfield by-pass and Frontier Drive is built.
- Close proximity to the Franconia-Springfield Metro Station impacts future development.
- Higher operating cost than either the Four Mile Run or Merrifield Garage.

QUESTION 8: According to the GAO, the application of the Buy America Act requires that the rail cars you have ordered must be assembled in the United States. Also according to the GAO; it usually takes six to nine months of advance work to prepare for assembly in a plant. It is the Committe's understanding that the purchase of rail cars from the Italian firm of Breda would require such an arrangement with an American assembly plant. But as of six months prior to the date of delivery (July 1982) no such arrangement had been made.

a. Has an assembler been selected?
b. What steps have you taken to guarantee timely delivery?
c. Is there a penalty clause which would allow some compensation damages to WMATA if the manufacturer was late on delivery?
d. Who assumes the cost of the delay?

ANSWER : The GAO's estimate of six to nine months advance work to prepare for assembly of the Breda cars is a comfortable time span. In a plant that is already geared for car assembly or car heavy repairs such as those presently being considered by Breda, probably four to six months would be adequate.

In any event, the controlling factor in when Breda needs to conclude an arrangement with an American assembler, is the WABCO strike. After settlement of the WABCO strike, Breda will require a minimum of six and possibly seven months to get the first pair of cars to the United States. It follows, therefore, that Breda can contiue to postpone its decision on the selection of an assembler until 30 days after settlement of the strike before there is any added risk to the delivery schedule.

a. An assembler has not yet been selected but the field has been narrowed to two potential suppliers.

b. Every possible step to assure timely delivery has been taken. The Authority has assisted in every way possible to align Breda with a responsible assembler, including the encouragement of certain firms to actively seek the business so as to provide a wide variety of possibilities to Breda. Whenever necessary, the Authority has provided engineering assistance required to obtain expeditious solutions to engineering problems which have arisen since Breda began design of the cars. With regard to the strike, the Authority is exploring various alternatives to mitigate its effect. Unfortunately there is no easy solution to obtaining alternate sources given the constraints of time, funds and technical considerations.

c. There is a liquidated damage clause which assesses the contractor $100 per day for each day delay beyond the specified delivery date. This penalty is excused, however, if the delay is beyond the control of the Contractor. A labor union strike is a category listed in the contract as excuseable.

d. Under the provisions of the contract the contractor is entitled to a time extension due to an "excuseable delay." He is not entitled to additional cost except to the extent provided for under the escalation provisions of the contract. In this case, he is entitled to an equitable adjustment if the delay imposes extended performance during a period of time reflecting a higher inflationary experience than originally bid.

QUESTION 9: Please provide a schedule of the bus purchases WMATA has made since 1976. Include the number, cost, manufacture and a description of the buses ordered. Features such as articulated and lift equipped should be included in the description.

ANSWER : See attachment.

Bus Cost Comparison

Grant	Contract Number	Make/Description	Purchase Date	Total Number Of Purchases	Price Each	Total Price *
IT-03-0019	2Y9030	AMG - 40 Foot	May '73	500	$40,151	$20,075,320
IT-03-0019	2Y9030	AMG - 35 Foot	May '73	120	36,677	4,401,274
IT-03-0022	2W9200	Flxible - 40 Foot	Dec '75	145	65,804	9,541,629
IT-03-0029	2V9500	Flxible - Suburban	Mar '77	12	76,723	920,680
IT-03-0029	2V9500	Flxible - Urban	Mar '77	122	67,122	8,188,884
IT-03-0029	2V9500-01	Flxible - Urban	Apr '77	5	67,127	335,635
IT-03-0029	2V9510	Mann - Articulated	Sep '76	43	178,125	7,659,366
IT-03-0031	2T9700	Flxible - 40 Foot	Jan '78	131	76,320	9,997,920
IT-03-0031	2T9700	Flxible - 40 Foot with Lifts	Jan '78	130	82,636	10,742,680
IT-03-0031	2T9710	Flxible - 31 Foot with Lifts	Jan '78	20	80,652	1,613,040
IT-03-0034	2R9910	G.M. Advance Design	Jan '79	115	103,681	11,923,315
						$85,399,743

* Ads, printing costs, spare parts, etc. not included

QUESTION 10: How do you set priorities for construction among the many jurisdictions?

ANSWER : Each year the Authority staff prepares a rail construction program proposing a work sequence, by budget years, for continuing the Metrorail system. The staff proposal is submitted for review and approval to the Board of Directors through its Ad Hoc Committee for development of a financial plan. The proposed program is based on anticipated funding levels for the current year and a projection for the next few years in order to round out the program by giving general guidance for completing the balance of the system. Based on the status of each phase of the Metrorail development cycle (i.e., planning, design, real estate acquisition, construction, equipment procurement, and equipment installation), the staff proposal reflects the funding required to keep the 101-mile system moving toward the earliest completion date possible. To the extent funding allows, this process facilitates progress being made on each operable segment and within each jurisdiction. The staff is continually assessing system requirements to reduce costs and keep the project moving; and, at the same time, build a quality system. When funding is reduced below the levels anticipated, contracts are subdivided, different construction techniques are examined and work sequencing is revised in attempts to mitigate the impact on the construction program.

The Ad Hoc Committee review and approval involves a negotiating process among the political bodies making up the compact members. The negotiation process results in some changes to the proposed program but at the same time creates an adopted rail construction program that is politically and technically balanced within the resources available.

QUESTION 11: What is the present cost to complete the 101-mile system? Please explain the inflation rate assumptions you are using.

ANSWER : The Authority has not updated the cost estimate to complete the 101-mile Metrorail system because future funding levels, a key to preparing such long range projections, are not determinable beyond the next four years.

The adopted construction program covers fiscal 1982 through 1985 and anticipates funding as follows:

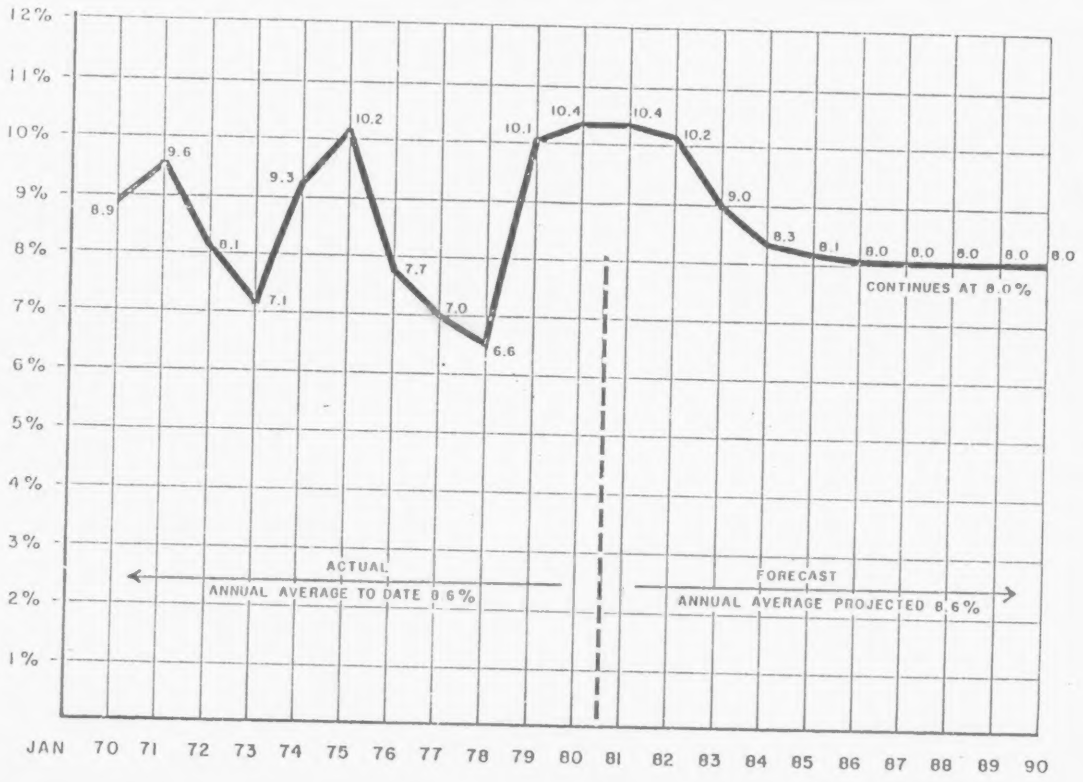
	FEDERAL	LOCAL	TOTAL	STATUS
FY 1982	284.2	50.2	334.4	Approved
FY 1983	375.0	84.9	459.9	Proposed
FY 1984	375.0	93.8	468.8	Proposed
FY 1985	415.0	103.8	518.8	Proposed

When annual budgets are prepared, we budget to the scheduled mid-point of construction for each project based on a projected annual inflation rate. The current inflation rates being used are summarized in Table 1. The projected annual inflation rate, starting in January 1982, is 10.2% and gradually tapers down to 8% in 1986 and continues at this level until system completion. Each year the actual inflation rate for a "market basket" of goods and services is calculated and averaged with the actual annual rates since 1970 when construction began. This computed actual average is then used as a guide in preparing our forecast annual average. The average annual inflation rate, experienced to date and the average annual rate forecasted to completion of the 101-mile system are both now 8.6%.

TABLE 1

June 5, 1981

WMATA OFFICE OF PROGRAM CONTROL
METRO WEIGHTED INFLATION RATES
METRORAIL CONSTRUCTION PROGRAM



QUESTION 12: Last year at this time you reported that your Board had just decided to implement a service where the handicapped could call in with 24-hour notice and be guaranteed that a lift-equipped bus would be there to pick them up on their route. I understand accessibility regulations have again changed. What are you currently offering for service in this regard?

ANSWER : Since September 1979, WMATA has provided lift service on 34 routes, with a lift-equipped fleet of 131 standard size buses. The first change in the service is planned for FY 1983. In FY 1983, the Authority plans to begin a multi-year bus rehabilitation program. These rehabilitated buses are seen as being poor candidates for lifts. As an alternative plan to retrofitting rehabilitated buses and because on the basis of current demand for lift service the Authority cannot justify major increases in the size of the lift fleet, an experimental program has been planned in consultation with the Washington area coalition of disabled persons. The program has three key elements:

1. A revision of the current lift service to concentrate accessible trips on fewer routes and thereby provide improved headways;

2. Implementation of a special reservation program which would allow persons requiring the lift to make a reservation one day in advance requesting that a lift bus be on a certain bus route at a certain time, corresponding to existing schedules. The lift-equipped buses can be arranged on a one-time basis or on a regular schedule for a particular route; and,

3. Retrofit of 20 buses of the 1977 fleet, originally specified to permit such retrofit. It is expected that a new, state-of-the-art lift type will be tested by this acquisition, and that the test will yield better data on lift operating/maintenance costs as a guide to future accessibility program development.

In addition, to improve the access of visually-and hearing-impaired persons to our information system, the Authority is beginning research under a grant program and community outreach programs are also dealing with safety issues for blind persons in the rail environment.

QUESTION 13: What has been the impact of the automatic quarterly cost-of-living adjustments (COLA's) on your operating expenses?

ANSWER : Since acquisition of the private bus companies in 1973, WMATA inherited a Union contract which included a quarterly cost-of-living clause tied to the Consumer Price Index. We have unsuccessfully challenged this formula for calculating wage increases four times in arbitration. The COL issue has always gone to arbitration, where the clause, with some slight modifications, has been retained.

Currently, the contract provides for a quarterly COL adjustment tied on a percent-to-percent basis up to 9 percent with the Consumer Price Index of All Urban Wage Earners. If the CPI is over 9 percent, then for every 0.35% increase in the CPI the contract is increased by 1¢ per hour.

In practical terms, since 1973 the wage for a top operator (3 years of service or longer) has risen from $5.25 per hour to

$11.60 per hour, not including normal fringe benefits and overtime.

The last COL increase occurred on March 1, 1982 when wages rose from $11.505 to $11.595--an increase of 9.0¢ (cents) per hour. For every 1¢ increase, it costs the Authority on an annual basis $155,000.

QUESTION 14: COLA

a. These COLA's must be part of a contract that was negotiated between WMATA and its union. What process was involved and how did you get yourself into this expensive agreement? Do you have any hope of renegotiating these agreements?

b. What is the status of union negotiations regarding the quarterly cost-of-living increase?

ANSWER a : To state that the existing COLA provisions of the transit workers' contracts were negotiated is somewhat misleading. Historically, D. C. Transit had, via contract arbitration, successfully eliminated periodic increases based upon the Consumer Price Index. However, immediately preceding take-over by WMATA, D. C. Transit agreed (during contract negotiations) to re-insert a quarterly COLA provision into the labor agreements. The first contract between WMATA and the transit unions was negotiated; however, it was the exact contract in place prior to take-over. In 1976, 1978 and 1980 the parties were unable to reach negotiated settlements and each agreement was the product of contract arbitration. In each instance, the COLA provisions were retained by the arbitration panel with slight modifications. For example, in 1980 the full CPI COLA was capped at 9% and increases above that level were to be calculated at a value of 1¢ per hour for each full 0.35-point increase in the index in excess of the 9% increase. Not only does the Authority have "hope" of renegotiating these costly provisions, it has the intent to negotiate, and if necessary, arbitrate a more satisfactory and less costly wage provision.

ANSWER b : The two (2) labor agreements covering transit workers expire on April 30, 1983. Contract reopeners must be exercised 90 calendar days in advance of the contract expiration, i.e., on or before February 1, 1983. In additon, WMATA is supportive of a resolution (SJR-55) currently under consideration by the Maryland General Assembly that calls for the parties to meet and reopen negotiations on provisions which would reduce or contain labor/operating costs.

QUESTION 15: Indicate any plans you may have for using leveraged leasing at Metro.

ANSWER : Metro management has discussed tax benefit leasing with representatives of several investment firms, and we will be ready to participate in this program when our eligible equipment is put into service. We have 294 rail cars currently on order, with a total value of $246,443,910. Based on the 15% local share of $36,966,586, Metro expects to generate additional funds of $7.4 million between May 1983, when we expect to put into service the first batch of cars scheduled for delivery, and 1986 (see attached).

LEVERAGE LEASING SCHEDULE
for 294 rail cars

Rail Cars			CALENDAR 1983	1984	YEAR 1985	1986	Total
76 Cam	x 740,060	=	$56,244, 560				$ 56,244,560
4 Chopper	x 791,920	=	3,167,680				3,167,680
14 Chopper	x 791,920	=		$11,086,880			11,086,880
70 Chopper	x 847,325	=		59,312,750			59,312,750
6 Chop	x 868,708	=		5,212,248			5,212,248
30 Chopper	x 868,708	=			$26,061,240		26,061,240
34 Chopper	x 898,409	=			30,545,906		30,545,906
26 Chopper	x 898,409					$23,358,634	23,358,634
34 Chopper	x 925,118					31,454,012	31,454,012
			$59,412,240	$75,611,878	$56,607,146	$54,812,646	$246,443,910
15% local equity			8,911,836	11,341,782	8,491,071	8,221,897	36,966,586
20% Cash			1,782,367	2,268,356	1,698,214	1,644,380	7,393,317 1/

1/ For comparison, full equipment eligibility, allowing 100% cost of the rail cars, instead of the local equity only to be leverage leased, will generate approximately $49 million.

We also have on order 32 articulated buses with a total value of $8,551,936. Local share of $1,711,872 will generate approximately $256,000 when leverage leased, assuming a 15% cash payment. The buses are scheduled for delivery during our 1983 fiscal year.

Finally, Metro is putting together a multi-year program to rehabilitate 613 buses. The first contract under this program is expected to be awarded in December 1982, to rehabilitate between 135 and 175 buses, with an estimated gross project cost of $12,600,000. The local share of $2,520,000 will generate approximately $252,000 for Metro in FY 1983.

QUESTION 16: Determine an approach that could be used to establish rail operations to Dulles.

ANSWER : Attached is correspondence on this issue.

November 24, 1981

Honorable J. Lynn Helms
Administrator
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20593

Dear Mr. Helms:

This is to ensure that there is a mutual understanding on the part of our respective agencies of the issues addressed in the Secretary of Transportation's October 29, 1981 letter to WMATA concerning the Dulles Access Highway Extension (DAHE) and the possible future Dulles Metrorail Line (see attached letter). The issues and responses of the Secretary are as follows:

Provision for Future Construction of Yard Lead Track

On this issue, the Secretary stated that "the DAHE has been designed to provide adequate clearance for the future Metrorail in the interchange area, including the lead track, all within the right-of-way. An access structure for the lead track can be built at a future date with only minimal disturbance to the DAHE eastbound travel lanes. Therefore, an access structure is not included in the present DAHE project, on which design is substantially complete."

Based on the Secretary's foregoing comments, it is our understanding that the FAA (and FHWA) will not object to traffic disruptions on the DAHE eastbound travel lanes caused by future construction of the yard lead track provided that appropriate measures are taken to reduce these disruptions.

Provision for Future Dulles Line in DAHE Median

In his letter, the Secretary pointed out that ..."sufficient right-of-way and clearances are available, and the roadway median has been reserved for a possible future extension of the Metrorail to Dulles Airport."

At first we were not certain that this design objective had been totally met. We alerted the FHWA staff on October 27, 1981 that we were concerned about the median clearances in the DAHE/I-495 interchange and requested more detailed coordinate and survey data. On November 13, 1981, we received the data and now have verified that the proposed clearances between the existing I-495 bridge piers and the proposed DAHE travel lanes are sufficient to meet our design and operating requirements. We apologize that our evaluation is so late in coming, but the necessary plan data was not previously available to us.

Provision of DAHE Plan Coordination

The Secretary further stated in his letter that the design of the DAHE has been coordinated with WMATA and that the design was satisfactory to the WMATA representatives who attended an August 24, 1981 meeting with Virginia Department of Highways & Transportation (VDH&T), FAA, and FHWA personnel.

To clarify the record on the question of DAHE project coordination with WMATA, we would like to point out that it was not until well after the August 24 meeting that we were provided detailed construction plans for certain portions of the DAHE for our review and comment. Although several related DAHE topics were briefly discussed at the August 24 meeting, the primary purpose of that meeting was to review changes that VDH&T was proposing in their I-66 design as it relates to the bus ramps connecting the DAHE and the West Falls Church Station. We are presently trying to work out the problems in that area directly with VDH&T.

We appreciate the cooperation that the FAA, FHWA and VDH&T have extended to us thus far and look forward to continuing working closely with your staff, FHWA and VDH&T personnel to ensure that the interests of our respective agencies are fully met as they are affected by the DAHE project.

Sincerely,

John S. Egbert
Assistant General Manager
for Design and Construction

OCT 29 1981

Mr. Richard S. Page
General Manager
Washington Metropolitan Area
  Transit Authority
Washington, D.C. 20001

Dear Mr. Page:

Your recent letter requested that provisions be made in the design of the Dulles Access Highway Extension (DAHE) for the possible future Metrorail extension to Dulles Airport. Your concern was for a lead track from the Metrorail West Falls Church Yard under the DAHE eastbound lanes in the area of the Interstate Route 66/DAHE interchange.

The DAHE has been designed to provide adequate clearance for the future Metrorail in the interchange area, including the lead track, all within the right-of-way. An access structure for the lead track can be built at a future date with only minimal disturbance to the DAHE eastbound travel lanes. Therefore, an access structure is not included in the present DAHE project, on which design is substantially complete. To add the structure at this stage of design would delay the proposed advertising date of November 1981 for the construction project. I have directed the design and construction work to be expedited in order that the DAHE may be opened to traffic by September 1983, a time frame to which I am committed.

The extension of the Metrorail to Dulles Airport was addressed in the final Environmental Impact Statement for the DAHE. As you know, the Dulles extension is not a part of the 101-mile Metrorail system that was recommended in the "Metrorail Alternatives Analysis" by the Council of Governments (COG). Further, the Alternatives Analysis recommended only that the right-of-way be acquired and set aside for the possible extension of Metrorail in the Dulles Corridor. Therefore, in compliance with COG's recommendation and as shown in the final Environmental Impact Statement, sufficient right-of-way and clearances are available, and the roadway median has been reserved for a possible future extension of the Metrorail to Dulles Airport.

Design of the DAHE has been coordinated with your office. The last meeting between Washington Metropolitan Area Transit Authority (WMATA), Federal Aviation Administration (FAA), and Federal Highway Administration (FHWA) personnel was held on August 24. It was our understanding that the design was satisfactory to your representatives at that time. However, I am requesting that FHWA and FAA continue to coordinate this work with your office.

The cooperation we have received from your office on the DAHE is appreciated.

Sincerely,

Drew Lewis

SEP 2 3 1981

Honorable Drew Lewis
Secretary of the Department
of Transportation
Washington, DC 20590

Dear Mr. Secretary:

The Authority staff has just completed a review of plans for the Dulles Airport Highway Extension from Interstate 495 to Interstate 66, adjacent to the West Falls Church Metrorail Station and Storage and Inspection Yard. The plans submitted to us do not provide for certain elements necessary for the possible extension of the Metrorail system to Dulles Airport, an extension that has shown significant Congressional support.

Three agencies (UMTA, FAA and FHWA) within the Department of Transportation are involved in this project. Because of the strong interest in a potential Dulles Airport Metrorail extension, Federal, state, and local funds have been spent to preserve this option during the construction of the affected portions of I-66 and Metro's Vienna Route. Your predecessor under President Ford, Secretary William Coleman, required the State of Virginia to perform certain work on I-66 in preparation for Metrorail construction. Some of this work relates to the extension of the Dulles Airport access road.

Were an extension of Metrorail to Dulles Airport ever to be built, the rail lines would be located in the median of the Dulles Airport Access Highway. Provisions for a lead track from the West Falls Church Yard under the eastbound lanes of the Dulles Airport extension would be required. Certain other design changes would also be necessary and would reduce the combined cost of the Dulles extension and future Metro projects as well as minimize future construction disruptions to the Dulles extension and I-66.

We propose that the Dulles Airport Access Highway Extension plans be amended to preserve the possibility of a future Metrorail extension to Dulles Airport and that these additional provisions be funded completely by the appropriate federal agency. WMATA engineers will be happy to coordinate the necessary design changes with FHWA or other DOT representatives.

QUESTION 17: GAO states that costs on the Breda car buy increased $16.5 million as a result of the approach used in negotiating the Breda option. Please explain for the record the facts relative to this negotiation.

ANSWER : The unit car price increased approximately $83,000 but still $100,000 less than the second low bidder on the option quantities. The renegotiation was necessitated by the Authority's transit vehicle requirements for near term operable segments and fiscal year funding limitations.

Contract 2Z0065 was awarded Breda on June 28, 1979 and contained an option for an additional 200 cars needed for operational requirements. However due to funding limitations (total $ must be in hand) the option for the full 200 cars could not be exercised. This lack of financing forced WMATA to either accept an option for a much smaller quantity of cars (approximately 50) or consider exercising the option for the full 200 cars with changed terms. This course of action obviously required renegotiation of the option price and terms. The WMATA proposal was to exercise the option and finance it in four increments, each of which required a separate Notice to Proceed. Each of these increments was tailored to a programmed annual funding level. Thus the Authority for a modest increase in price and terms was able to obtain the economic benefits of the initial bid and acquire sufficient cars to meet pressing operational requirements.

This concept of multi-year funding, delivery schedule and Authority requirements was prepared and negotiations were initiated with Breda. This procurement was approved by the Authority's Board of Directors on May 14, 1981.

The rise in unit cost (approximately 7.5 %) is attributed to:

1. Division of the 200 car option into 4 lots each dependent upon availability of funds thus reducing the benefits of larger quantity purchases of assemblies, material and firm contractural commitment.

2. Logistics of securing commitments for lesser quantities thus necessitating additional administrative and procurement activities.

3. Production rate was reduced as a result of forecasted funds availability and schedule thus reducing fabrication and assembly efficiency.

4. Contractor risk was increased since prices were developed on the basis that funds would be available or become available for all two hundred cars. Although equitable adjustments would be made with event of non-availability of funds, business opportunities of the contractor could be impacted, work force reduced and plant capacity idled by unforseen direction by the Authority for curtailment of cars. Thus the contractor assumed the risk that any scheduled increment might not be executed due to lack of funds.

QUESTION 18a: If we appropriated additional Stark-Harris funding, I understand the Department could refuse to transfer it to you. If they rule you do not have the Stable and Reliable revenue sources in-place, is that correct?

ANSWER : If U.S. DOT rules that WMATA does not have the stable and reliable revenue sources in-place, they could withhold Stark-Harris funding. The Department of Transportation has reviewed the legislation adopted by the jurisdictions and has indicated that additional actions are needed in the Virginia jurisdictions. It is the Department's position that the jurisdictions should provide assurances, to fund that portion of the operating and debt service costs not covered by legislation. Meetings are continuing with the legal and financial staffs of each jurisdiction, WMATA, and the Department to bring about the necessary actions.

QUESTIONS SUBMITTED BY SENATOR CHILES

QUESTION 18b: Public Law 96-134 known as the Stark-Harris legislation authorizes $1.7 billion to be appropriated for Metrorail construction. The funds would be appropriated to the Department of Transportation, but the law prohibits the Department from making the funds available to Metro until the Department is satisfied that the local jurisdictions have a Stable and Reliable source of reveue for Metro operations and Metro bond repayment.

I understand that DC has satisfied the requirement, the Maryland jurisdictions have met 70 percent of the requirement and the Virginia jurisdictions have met only 30 percent of the requirement with the gas tax that was passed several years ago.

Please describe the specific manner in which each of the jurisdictions has sought to meet the requirements. When was the Virginia tax passed? Who collects it? In which Virginia jurisdictions is it in force? It was initially set at 2 percent and goes to 4 percent on July 1, 1982. Is that correct? Does the tax have an expiration date? How much of the Virginia requirement does the gas tax meet?

ANSWER : Maryland authorized in 1980 the payment of 75 percent of the net operating costs and 75 percent of the WSTC payments on the WMATA transit bonds in order to meet the stable and reliable requirement. The District of Columbia Council on February 23, 1982, passed a bill entitled the "Stable and Reliable Source of Revenues for WMATA Act of 1982". The bill provides for the establishment of a "Metrorail/Metrobus Account" and allocates to it revenues from various sources, including Federal operating assistance grant funds, motor fuel taxes, parking fines and the restaurant meals tax.

Virginia in 1980 enacted a retail motor fuel sales tax applicable only within the Northern Virginia Transportation District (Cities of Alexandria, Fairfax and Falls Church; Counties of Arlington and Fairfax). The law provided for a tax of two percent on July 1, 1980, and an additional two percent on July 1, 1982. The law (Section 58-730.5, Code of Virginia) has no expiration date.

The 1982 Virginia General Assembly passed a bill repealing the additional (July 1, 1982) two percent motor fuel tax, but replaced the revenues by appropriating an additional $10 million in FY 1983 and $10 million in FY 1984. Since the current estimate of revenue from the two percent tax for FY 1983 and 1984 is $17.0 million, this action enhanced the stable and reliable posture of Virginia by $3.0 million.

The existing two percent gas tax plus funds from the state appropriations act enable Virginia to cover 45-50 percent of the subsidy requirement from non-local general fund sources.

QUESTION 18c: Based on the Virginia jurisdiction's delegation of power from the State, what additional taxes can they pass to meet the Stable and Reliable source of revenue requirement?

ANSWER : The new legislation recently passed by the Commonwealth of Virginia provides, for the first time, specific appropriated State funding for the Northern Virginia jurisdiction earmarked for Metro. In fact, the legislation specifically refers to these appropriations as funding earmarked to satisfy provisions of PL 96-184 (Stark-Harris).

The funds appropriated amount to $41.7 million for the biennium FY 83-84. The legislation rescinded the Northern Virginia 2% gas tax increase slated for July 1982, but retained the current 2% gas tax. Funding from this source will provide $17.6 million for the Northern Virginia communities for the period FY 83-84, which, along with the $41.7 million, is dramatically greater than the $20 million provided for the period FY 81-82.

QUESTION 18d: Can the Virginia jurisdictions pass a law, ordinance or enact a policy to pledge a certain share of their property or real estate taxes to Metro operation? If the Virginia jurisdictions did pass such a law, ordinance or enact such a policy, is it likely to satisfy the Department?

ANSWER : The Virginia jurisdictions believe they may under Virginia law designate monies from their general fund from certain sources of revenue to Metro operations, but they are prevented from dedicating funds from a particular tax levy. Official actions from the Virginia jurisdictions stating that general fund revenues shall be used to satisfy the stable and reliable requirement will, we believe, be satisfactory to the Department.

QUESTION 18e: Does the Department have any specific criteria with regard to reliable and stable?

ANSWER : A letter from Secretary Lewis to Senator Warner dated December 22, 1981 set forth the Secretary's position as follows:

> "The Department believes the Stark-Harris legislation and the legislative history convey a sense of the Congress that excessive reliance on general revenues for operating subsidy and debt service would not fulfill the requirement for stable and reliable funding sources (S. REP No. 96-475, 96th Congress, 1st session 18; 1979). In view of this, we believe a high dependence on general revenues, such as 76% of the costs in Virginia, is not acceptable. At the same time, we recognize that dedicated funding sources need not cover 100% of the estimated cost. Assuming continued solvency of the Maryland Transportation Trust Fund, actions by the State of Maryland to provide for expected Metro operating and bond service costs, when supplemented by general revenue assurances of the localities, should suffice. I understand that the City Council of the District of Columbia has before it a bill to cover the District's share of operating and bond service requirements. Income projections indicate that this legislation, if enacted, will fully cover the District's requirement through FY 1989."

QUESTION 19: If the Stark-Harris funding is not made available in 1983, what would happen to the Metro construction program? When would construction stop? What would happen to the Compact?

ANSWER : Our options are somewhat open as far as what can be accomplished under this funding level and the Board of Directors has not completely analyzed the approach it would take. However, Interim Capital Contributions Agreement-III contains an adjustment clause should funding be reduced. This clause provides for a pro-rata reduction to all construction and real estate budget items. Table 1, attached, shows the amount of funds available for each project under ICCA-III. If federal participation is approved at a lower figure, the scope of the construction and real estate budget items will have to be severly reduced causing each operable segment beyond the 60 miles of the system to be adversely impacted with opening dates being delayed, and cost continuing to escalate.

012252

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
APPROVED RAIL CONSTRUCTION PROGRAM

BUDGET ITEMS:	1982	1983	1984	1985	1986	1987	1988	198
MANAGEMENT & CONSULTANT	44.0	44.0	44.0	44.0				
START-UP/FORCE ACCOUNT	7.0	8.9	6.0	6.0				
GRANT SHORTFALL**	80.0	28.4	--	--				
WORK EQUIPMENT	--	3.0	3.0	3.0				
DESIGN	--	--	8.0	--				
SUBTOTAL	131.0	84.3	61.0	53.0				
C- & L-ROUTES								
A-ROUTE								
CONSTRUCTION:								
1. K-ROUTE								
Real Estate	--	--	--	--				
Structural K-7	21.2	--	--	--				
Finish & Stage	7.4	53.3	31.1	--				
2. B-ROUTE								
Real Estate	--	--	--	--				
Structural B-10****/B-11, 12	--	23.5	67.0	143.0				
Finish & Stage	--	--	--	38.9				
3. INNER GREEN ROUTE								
Real Estate	--	--	--	--				
Structural F-5 /F-3/E-1a/E-1b	*62.9	95.0	115.0	66.0				
Finish & Stage	--	--	--	33.5				
4. J/H ROUTE								
Real Estate	--	14.8	--	--				
Structural J-2a/J-2b/H-1	--	4.6	48.0	38.0				
Finish & Stage	--	--	--	14.5				
5. OUTER F-ROUTE								
Real Estate	--	1.0	14.5	--				
Structural F-7a	--	--	--	11.0				
Finish & Stage	--	--	--	--				
6. E-ROUTE								
Real Estate	15.6	12.1	--	11.4				
Structural E-5b/E-6b,E-5c/E-6c	--	44.0	34.0	28.0				
Finish & Stage	--	--	--	--				
Advance Parking E-5b, E-7b	19.4	--	--	--				
SUBTOTAL	126.5	248.3	309.6	384.3				
OTHER CONSTRUCTION	6.0	8.0	6.0	7.0				
CONTINGENCY	19.3	19.9	20.2	36.5				
INSURANCE	18.0	22.4	32.0	38.0				
FARE COLLECTION	4.0	7.0	--	--				
RAIL CARS	29.6	70.0	40.0	--				
QUANTITY	(36)	(60)	(34)	--				
INVENTORY (464)	(500)	(560)	(594)	--				
ANNUAL TOTALS***	334.4	459.9	468.8	518.8				

*FHWA Funding Access Roads & Parking for Anacostia, $31.7M not included in 1982 funding.

**Distribution of the 1982 Grant Shortfall amount is: DC $10.0M; MD $53.0M; and, VA $17.0M.

***Construction levels are supported by Federal funding for FY82, 83, 84 & 85 of $284.2M, $375M, $375M and $415M respectively.

****One structural contract for B-10 funded with FY83 and FY84 funds.

QUESTION 20: In the Metro FY 1983 Budget (p 31), it shows passengers per scheduled car going down in 1983 to 309,112 from 321,938 in FY 1982. What is the reason for this decline in view of the fact that ridership is up and additional car deliveries have been delayed?

ANSWER : When the Proposed FY 1983 Budget was assembled during the summer and fall of 1981 the rail cars were thought to be ready in time for a December 1982 opening of the Huntington/L Routes. Since then, we now know that the rail car delivery will be delayed due to the strike at WABCO. Therefore, the statistics in the Approved Budget will reflect this slippage.

QUESTION 21: Why is rail operating assistance projected to increase 33 percent in 1983 when revenue car miles are up only 17 percent?

ANSWER : In addition to the aforesaid increase due to rail car miles, the Proposed Budget also took in account inflation, an additional maintenance facility, new initiatives to improved track maintenance, service reliability and upgrade cleanliness, as well as caretaking responsibilities on the Shady Grove Route.

Many of these assumptions have been changed due to the delay of the new rail cars. The Approved FY 1983 Budget will be adjusted to reflect those changes.

QUESTION 22: Please provide a schedule and description of what will open for service between now and September 30, 1983?

ANSWER : Because of the delay in the delivery of rail cars, our Huntington Line will not open until November 1983. However, we plan on operating the L Route shuttle between Gallery Place and National Airport by August 1983 and also plan on opening our Alexandria Yard and Shop facilities by September 1982. This will greatly relieve the Blue Line crowding and provide more advanced and convenient maintenance.

QUESTION 23: How many full-time and how many part-time bus drivers are in Metro service? What are the plans to have additional part-time drivers?

ANSWER : As of March 1, 1982, the Authority had a quota of 2,572 full-time and 244 part-time bus operators.

The Authority plans to expand the part-time bus operator quota to the extent that running schedules and the labor contract permit. Currently the labor contract limits WMATA's part-time bus operator quota to 10% of the number of full-time bus operators, prohibits the part-time employment of anyone who holds a separate full-time job, exempts part-timers from accruing seniority, and so forth. We hope to change some of the prohibitive conditions for part-time employment during our next bargaining session.

QUESTION 24: Labor Negotiations

a. Congressman Wolf introduced legislation last year to rescind the binding arbitration requirement for negotiations between WMATA and Amalgamated Transit Union (Mr. Charles Boxwell, Pres.). To effectively eliminate the binding arbitration requirement, each of the three jurisdictions would need to pass an identical provision and then the U. S. Congress would also need to pass the same provision. Is that correct?

b. Are compulsory and binding arbitration requirements generally considered pro labor?

c. When the current three-year contract between WMATA and labor expires on April 30, 1983, does WMATA hope to have in-place a new agreement to curtail labor expenses? Can this be achieved if binding arbitration requirements are still in-place?

d. Does any other transit authority in the county have a quarterly cost-of-living adjustment?

e. What are the hourly wages for Metro operators? How does this compare with the hourly rate for teachers ad policemen in the area?

ANSWER 24a : Yes. Identical amendments would have to be passed by the legislative bodies of Virginia, Maryland, and the District of Columbia as well as by the U. S. Congress. To date, only Virginia has passed legislation which would eliminate compulsory binding arbitration from the compact.

24b : Compulsory and binding arbitration provisions has been generally labeled as pro labor. However, within the public sector, where strike activities are generallly forbidden or severly curtailed, arbitration is a form of impasse resolution that is often pursued and/or endorsed by both unions and public employers. A case in point is the recent New York legislation which temporarily places the Transit Authority and union under a binding arbitration provision. Both parties sought its adoption as an alternative to a strike.

24c : It is WMATA's position to negotiate a replacement agreement which would include some relief in the area of labor costs prior to the April 30, 1983 contract expiration. Barring a mutually agreed to contract, WMATA will seek such relief through the arbitration process. Reductions in labor costs are possible within a compulsory binding arbitration environment, however, historically, reductions are more difficult to achieve and the burden is on management to make an exceptionally strong case.

24d : Based upon a March 1982 report by John A. Dash and Associates, of all transit systems in the U. S., 94 out of 171 (55%) have a form of automatic escalator clause (the report does not indicate frequency). Of the 28 major transit properties, the above report reflects the fact that 22 (79%) have an escalator clause which governs rate adjustments for transit workers.

24e : The current hourly rate for top bus and rail operators is $11.595 per hour. Top operator rates are not earned in the first three years for those operators hired on or after December 23, 1980:

75% for the first 12 months ($8.696/hr.)
80% for the next 12 months ($9.276/h4.)
90% for the next 12 months ($10.436/hr.)

A direct comparison of police and teacher wage rates is extremely complex given variances in grade/steps vs. flat rate, working hours, etc. However the following table reflects rates for police officers and teachers at the first and top hourly rates exclusive of longevity for a majority of the participating jurisdictions:

Jurisdiction	Position	Entry Rate	Top Rate	Years to Reach Top
Alexandria	Police Officer	$8.27	$10.49	5
	Teacher	$7.53-10.02	$13.71-18.46	16-20
Arlington	Police Officer	$8.56	$10.82	6
	Teacher	$7.82-10.42	$11.97-17.15	9-14
D. C.	Police Officer	$8.34	$12.00	16
	Teacher	$7.07-8.49	$10.97-13.36	12
Montgomery Co.	Police Officer	$8.01	$12.12	21
	Teacher	$6.37-7.65	$9.81-13.44	9-13
Prince George's Co.	Police Officer	$8.03	$10.95	6
	Teacher	$6.78-9.35	$11.32-14.30	12
Fairfax Co.	Police Officer	$8.23	$12.16	13
	Teacher	$7.28-7.59	$12.42-16.57	12-19
WMATA	Operator	$8.696	$11.595	3

Note: Police Officers - 40 hour week.
Teachers - Work weeks vary from 35 to 40 hours
- Entry rate varies based on educational level from B.A. to Ph.D.
All jurisdictional rates extracted from the September 1981 LGPA Wage and Benefit Survey.

SUBCOMMITTEE RECESS

Senator ANDREWS. Since there are no further individuals to be heard, the subcommittee stands adjourned.

[Whereupon, at 11:20 a.m., Thursday, March 11, the subcommittee was recessed, to reconvene at the call of the Chair.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

FRIDAY, MARCH 12, 1982

U.S. Senate,
Subcommittee of the Committee on Appropriations,
Washington, D.C.

The subcommittee met at 10 a.m. in room 1318, Everett McKinley Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

DEPARTMENT OF TRANSPORTATION

Office of the Inspector General

STATEMENT OF JOSEPH P. WELSCH, INSPECTOR GENERAL

SUBCOMMITTEE PROCEDURE

Senator Andrews. The subcommittee will come to order.

This morning our hearing will be divided into three segments, the first segment being the Office of Inspector General, Department of Transportation. Mr. Joseph Welsch, the Inspector General, is our witness today.

Welcome to the subcommittee, Mr. Welsch. Your statement will be put in the record as though delivered in full. If you will summarize it, we can get to the questions.

Mr. Welsch. Thank you, Mr. Chairman. I would like to summarize the statement if I might, sir.

I am pleased to appear before the subcommittee for the first time as the Inspector General of the Department of Transportation.

For 1983, a total funding level of $24.9 million is requested for operation of the Office of Inspector General. This primarily relates to salaries and benefits. About 70 percent of our request is in salaries and benefits, the remainder is for travel, contract audit support, office space, equipment, supplies, and other operating costs. This funding level also supports the Maritime Administration which was transferred to the Department of Transportation. We assumed the audit and investigative responsibility for that on January 10, 1982.

Fiscal year 1981 represented our second full year of operation. Several changes were made to our operations in order to maximize the utilization and productivity of our resources. The Office of Special Programs and Evaluation was eliminated and transferred to line audit and investigative functions, increasing our capability in both areas.

We have established an ADP audit group in the office of DOT-wide programs to provide badly needed audit coverage of data processing programs and developing new systems. We also streamlined our handling of hotline complaints, referring those involving relatively minor issues directly to the modal administrators.

In fiscal year 1981, we issued 2,250 audit reports with audit recoveries of $259 million. Our investigative activities accounted for 51 convictions, $3.3 million in fines, prison sentences of 12.9 years, and probations of 23 years. Administrative remedies resulted in 3 reprimands, 7 suspensions, 7 resignations or retirements, and 14 restitutions.

My objective for the coming year is to emphasize steps which will enhance our ability to deliver the maximum audit and investigative service to the Department with the available resources.

The initiation of selective criteria for investigative cases has allowed us to devote more resources to high-priority, large dollar value cases. We plan to continue these efforts, considering the cost benefit and high potential for deterrent value, fund recoveries, and cost savings.

In summary, I believe we have made substantial progress in fulfilling our responsibilities to identify fraud, waste, and abuse in departmental programs and activities. I am confident that we will be responsive to the needs of the Department and the mandates of the Inspector General Act.

PREPARED STATEMENT

This concludes my statement, Mr. Chairman. I will be glad to answer any questions you may have.

[The statement follows:]

STATEMENT OF JOSEPH P. WELSCH

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE; I AM PLEASED TO APPEAR BEFORE YOU TODAY FOR THE FIRST TIME AS THE INSPECTOR GENERAL OF TRANSPORTATION TO DISCUSS OUR 1983 BUDGET REQUEST. HOWEVER, BEFORE DESCRIBING THE HIGHLIGHTS OF OUR BUDGET, ORGANIZATIONAL CHANGES, AND AUDIT AND INVESTIGATIVE ACTIVITIES, I WOULD LIKE TO COMMENT ON MY RELATIONSHIPS IN THE DEPARTMENT. SECRETARY LEWIS TAKES A PERSONAL INTEREST IN AND FULLY SUPPORTS THE OBJECTIVE AND INDEPENDENT ROLE OF THE INSPECTOR GENERAL. HE HAS EMPHASIZED TO ALL ADMINISTRATORS AND SENIOR STAFF MEMBERS THE IMPORTANCE OF RESOLVING AUDIT FINDINGS AND RECOMMENDATIONS AND TAKING APPROPRIATE CORRECTIVE ACTION ON PROBLEMS IDENTIFIED. HIS EFFORTS CONTRIBUTED SIGNIFICANTLY TO THE REDUCTION OF UNRESOLVED AUDITS OUTSTANDING.

FOR FY 1983, A TOTAL FUNDING LEVEL OF $24.9 MILLION IS REQUESTED FOR OPERATION OF THE OFFICE OF INSPECTOR GENERAL. THIS REQUEST IS FOR DIRECT APPROPRIATION AND INCLUDES COSTS PREVIOUSLY FUNDED BY TRANSFERS FROM THE HIGHWAY TRUST FUND. THE ACTUAL INCREASE OF $1.9 MILLION OVER FISCAL YEAR 1982 IS PRIMARILY ATTRIBUTABLE TO OUR CONTRACT AUDIT EFFORT. WE WILL BE CONDUCTING SOME CATCH-UP AUDITS IN 1983 DUE TO REDUCTIONS IN THIS AREA IN 1982 AND ALSO PROVIDING CONTRACT AUDIT SUPPORT FOR THE MARITIME ADMINISTRATION.

THE FUNDING LEVEL REQUESTED WILL PROVIDE FOR (1) SALARY AND BENEFITS FOR 436 FULL-TIME EQUIVALENT POSITIONS, A DECREASE OF 27 FROM 1982; (2) ADEQUATE TRAVEL TO ACCOMPLISH THE AUDITS AND INVESTIGATIONS OF THE DEPARTMENT AND; (3) CHARGES FOR CONTRACT AUDIT SUPPORT, RENTAL OF OFFICE SPACE, EQUIPMENT, SUPPLIES AND OTHER OPERATING COSTS. THIS FUNDING LEVEL ALSO SUPPORTS THE ADDITIONAL AUDIT ANB INVESTIGATIVE FUNCTION ASSOCIATED WITH THE MARITIME ADMINISTRATION WHICH WAS TRANSFERRED TO THE OFFICE OF INSPECTOR GENERAL ON JANUARY 10, 1982.

ORGANIZATION

THE OFFICE OF INSPECTOR GENERAL IN THE DEPARTMENT WAS IMPLEMENTED ON FEBRUARY 25, 1979. AS A RESULT OF THE 1982 BUDGET REVISIONS ENACTED BY CONGRESS. THE OIG STAFFING LEVEL WAS ESTABLISHED AT 420 POSITIONS. ADDITION OF THE MARITIME ADMINISTRATION'S AUDIT AND INVESTIGATIVE WORKLOAD INCREASED THE STAFFING LEVEL BY 19 POSITIONS TO A TOTAL OF 439.

ACCOMPLISHMENTS

FISCAL YEAR 1981 REPRESENTED OUR SECOND FULL YEAR OF OPERATION. SEVERAL CHANGES WERE MADE TO OUR OPERATIONS IN ORDER TO MAXIMIZE THE UTILIZATION AND PRODUCTIVITY OF OUR RESOURCES. THE OFFICE OF SPECIAL PROGRAMS AND EVALUATION, A STAFF ELEMENT REPORTING DIRECTLY TO THE INSPECTOR GENERAL, WAS ELIMINATED. MOST OF THE 10 PERSONNEL ASSIGNED TO THE OFFICE WERE TRANSFERRED TO LINE AUDIT AND INVESTIGATIVE FUNCTIONS, INCREASING OUR CAPABILITY IN BOTH AREAS. AN ADP AUDIT GROUP WAS FORMED IN THE DOT-WIDE AUDIT PROGRAMS OFFICE. THIS OFFICE PERFORMS AUDITS AND EVALUATIONS OF AUTOMATED SYSTEMS IN ACCORDANCE WITH OMB CIRCULAR A-71 WHICH REQUIRES EVALUATIONS OF THE SECURITY OF SENSITIVE AUTOMATED SYSTEMS. WE STREAMLINED OUR HANDLING OF HOTLINE COMPLAINTS REFERRING THOSE INVOLVING RELATIVELY MINOR ISSUES DIRECTLY TO THE MODAL ADMINISTRATIONS FOR HANDLING IN ORDER TO FREE UP INVESTIGATIVE CAPABILITY FOR HIGHER PRIORITY CASES. A CONCERTED EFFORT WAS MADE TO IMPLEMENT THE SINGLE AUDIT CONCEPT IN ACCORDANCE WITH OMB CIRCULAR A-102 WHICH REQUIRES THE OIG TO PERFORM COGNIZANT AGENCY RESPONSIBILITY FOR SINGLE AUDITS CONDUCTED BY NON-DEPARTMENT OF TRANSPORTATION AUDITORS. WE WERE ACTIVELY INVOLVED IN THE COGNIZANT AGENCY DETERMINATIONS AND WORKED ON THE DEVELOPMENT OF THE SINGLE AUDIT GUIDELINES. WE ARE THE COGNIZANT AGENCY FOR THE STATE OF MARYLAND, STATE DEPARTMENTS OF TRANSPORTATION, A NUMBER OF MUNICIPALITIES, AIRPORT AUTHORITIES, AND OTHER GOVERNMENTAL UNITS.

IN FISCAL YEAR 1981 WE ISSUED 2,250 AUDIT REPORTS WHICH RESULTED IN AUDIT RECOVERIES OF $259 MILLION. IN THE SIX MONTHS ENDED SEPTEMBER 30, 1981, WE REPORTED RECOVERIES OF $190 MILLION: OF THIS AMOUNT $51 MILLION WAS QUESTIONED COSTS SUSTAINED AND $139 MILLION WAS COSTS AVOIDED FROM OTHER DOLLAR BENEFIT FINDINGS.

OUR INVESTIGATIVE ACTIVITIES IN FISCAL YEAR 1981 HAVE ACCOUNTED FOR 51 CONVICTIONS AND $3.3 MILLION IN FINES. PRISON SENTENCES IMPOSED AS A RESULT OF OUR INVESTIGATIONS TOTALLED 12.9 YEARS AND PROBATIONS TOTALLED 23 YEARS. IN ADDITION, 37 CASES WERE REFERRED TO MANAGEMENT OFFICIALS FOR APPROPRIATE ADMINISTRATIVE REMEDIES. THESE REFERRALS RESULTED IN 3 REPRIMANDS, 7 SUSPENSIONS, 7 RESIGNATIONS OR RETIREMENTS, 14 RESTITUTIONS, AND 6 CORRECTIVE ACTIONS.

ANOTHER SIGNIFICANT ACCOMPLISHMENT IN THE INVESTIGATIVE AREA HAS BEEN THE SUCCESS OF OUR EFFORTS IN FRAUD DETECTION AND PREVENTION REVIEWS. A VALUABLE END PRODUCT HAS BEEN THE IDENTIFICATION TO MANAGEMENT OF FRAUDU-

LENT SITUATIONS AND PRACTICES. WHERE APPROPRIATE WE THEN PERFORM IN-DEPTH AUDIT AND INVESTIGATIVE WORK TO DOCUMENT THE PROBLEMS AND PROPOSE NECESSARY CORRECTIVE ACTION.

CURRENT OPERATIONS & OBJECTIVES

MY OBJECTIVE FOR THE COMING YEAR IS TO EMPHASIZE STEPS WHICH WILL ENHANCE OUR ABILITY TO DELIVER THE MAXIMUM AUDIT AND INVESTIGATIVE SERVICE TO THE DEPARTMENT WITH THE RESOURCES AVAILABLE. WE WILL CONTINUE TO SEARCH FOR OPPORTUNITIES TO ENABLE US TO DIRECT OUR EFFORTS TOWARD AREAS MOST IN NEED OF AUDIT AND INVESTIGATIVE OVERSIGHT. WE ARE WORKING CLOSELY WITH MANAGEMENT IN THE IMPLEMENTATION OF OMB CIRCULAR A-123 CONCERNING INTERNAL CONTROL SYSTEMS. THE RESULTS OF THE VULNERABILITY ASSESSMENTS WILL BE UTILIZED IN OUR AUDIT PLANNING DECISIONS AND WE WILL PROVIDE ASSISTANCE IN THE DEVELOPMENT OF GUIDELINES FOR INTERNAL CONTROL REVIEWS, AS WELL AS MAKING THIS AREA A SUBJECT OF AUDIT INTEREST.

WE WILL CONTINUE IMPLEMENTING THE SINGLE AUDIT CONCEPT AND USE STATE AND OTHER AUDIT RESOURCES TO THE FULLEST EXTENT PRACTICABLE. ADDITIONAL EMPHASIS WILL BE DIRECTED TOWARD CLOSING OUT AUDIT REPORTS IN A TIMELY MANNER AND OVERSEEING THAT CORRECTIVE ACTION HAS BEEN FINALIZED. WE HAVE INITIATED CLOSER COORDINATION AND DIRECTION OF HEADQUARTERS AND REGIONAL AUDITS TO PERMIT MORE UNIFORM APPROACHES TO PROBLEM AREAS UNDER AUDIT. WITH THESE APPROACHES, I AM CONFIDENT WE WILL PROVIDE THE DEPARTMENT WITH ADEQUATE AUDIT COVERAGE IN SENSITIVE AND HIGH-RISK AREAS.

THE INITIATION OF SELECTION CRITERIA FOR INVESTIGATIVE CASES HAS ALLOWED US TO DEVOTE MORE RESOURCES TO HIGH PRIORITY, LARGE DOLLAR VALUE CASES. INCREASED EFFORTS IN THE AREA OF FRAUD DETECTION AND PREVENTION REVIEWS HAS RESULTED IN SYSTEMATIC, IN-DEPTH INVESTIGATIVE SCRUTINY INTO THE DEPARTMENT'S ASSISTANCE PROGRAMS. WE PLAN TO CONTINUE THESE EFFORTS CONSIDERING THE COST BENEFIT AND HIGH POTENTIAL FOR DETERRENT VALUE, FUND RECOVERIES AND COST SAVINGS.

AS A RESULT OF MY MEMBERSHIP ON THE PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY, THE OFFICE OF INSPECTOR GENERAL HAS BEEN INVOLVED IN PLANS WHICH FACILITATE BETTER COORDINATION ON AUDIT AREAS OF INTEREST. INFORMATION IS EXCHANGED ON SIGNIFICANT AUDIT AND INVESTIGATIVE FINDINGS, NEW AUDIT OR INVESTIGATION TECHNIQUES, AND AREAS OF COMMON CONCERN. THE COUNCIL HAS

ESTABLISHED SEVERAL FEDERAL GOVERNMENT-WIDE AUDIT PROJECTS AND WE HAVE ACTIVELY PARTICIPATED IN THEM. THIS IS THE FIRST MAJOR EFFORT TO COORDINATE AND PERFORM EXECUTIVE BRANCH-WIDE REVIEWS BY INSPECTOR GENERAL ORGANIZATIONS.

SUMMARY

IN SUMMARY, I BELIEVE WE HAVE MADE SUBSTANTIAL PROGRESS IN FULFILLING OUR RESPONSIBILITIES TO IDENTIFY FRAUD, WASTE AND ABUSE IN DEPARTMENTAL PROGRAMS AND ACTIVITIES.

OUR FUTURE EMPHASIS WILL BE PLACED ON OBTAINING INCREASED PRODUCTIVITY FROM EXISTING RESOURCES. WE ARE CONSTANTLY ASSESSING AND SEARCHING FOR NEW TECHNIQUES WHICH WILL INCREASE OUR CAPABILITIES. WE ARE CONFIDENT THAT WE WILL BE RESPONSIVE TO THE NEEDS OF THE DEPARTMENT AND THE MANDATES OF THE INSPECTOR GENERAL ACT.

THIS CONCLUDES MY STATEMENT, I WILL BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.

PROBLEMS AND WEAKNESSES

Senator ANDREWS. Thank you very much, Mr. Inspector General.

Your latest semiannual report states that "because the role of the Inspector General is to identify problems and weaknesses, our emphasis has been placed in the areas most susceptible or vulnerable."

What criteria do you use in determining which programs are most susceptible and vulnerable? Is this just a seat-of-the-pants estimate or do you use some type of yardstick?

Mr. WELSCH. We use various criteria, Mr. Chairman. The dollar value of the program is certainly a key factor in determining where we devote our resources. The larger dollar value programs will normally receive more attention.

Senator ANDREWS. That is what bothers me. All too often you take the big dollar items and take a pretty close look at them. Then, the lower dollar items, which eventually add up to quite a sum of money, do not fit that auditing procedure. An awful lot of money can fall through the cracks.

Mr. WELSCH. The dollar value is one factor, as I indicated. Other factors are sensitivity of programs, the significance of an area, and vulnerability to fraud or mismanagement of an activity.

As an example, last year we did a series of reviews of petty cash because of the vulnerability of cash in boxes throughout the Department. We covered, I think, over 200 accounts in the Department. We do cover smaller activities as well as larger ones, depending on the vulnerability of that activity.

Senator ANDREWS. Could you list two or three of these programs that you have identified as most susceptible or vulnerable?

Mr. Welsch. I can do that for the record.

Senator Andrews. Can you provide them now, off the top of your head?

Mr. Welsch. As far as the sensitivity?

Senator Andrews. No, I mean the ones that you are auditing because you have identified them under the OIG criteria.

Mr. Welsch. We have a major effort underway on construction contract change orders. This is a project which covers several Federal agencies and it is sponsored by the President's Council for Integrity and Efficiency.

As the lead agency, we have developed an audit program to cover the various aspects of contract change orders. We are covering this because during the survey phase it looked like it was a sensitive area and that perhaps contract change orders were being misused. They were subject to misuse as far as correcting deficiencies in original contracts, contract proposals, and as a means of obligating funds at the end of the fiscal year.

We are reviewing the various aspects of contract change orders to assure that they are not being misused. If there is any requirement to correct Federal procurement policy as it relates to contruction contract change orders, we can make appropriate recommendations.

PLANNING

Senator Andrews. Do you make any efforts to insure that every program in DOT is audited?

Mr. Welsch. Yes, sir, Mr. Chairman. We have an effort underway now to better define our audit universe and to assure adequate coverage on a cyclical basis of all major activities, programs, systems, and accounts.

This effort has been underway for about 3 months and we are better identifying the audit universe to give us some assurance that we do cover all programs within the Department either on a systemwide basis or on an individual activity basis if it deserves that kind of treatment.

Senator Andrews. Comprehensive planning is an essential aspect of insuring adequate coverage of DOT programs. Please describe your planning process, including the roles that both headquarters and the regional offices play.

Mr. Welsch. In planning our audits, we use an audit universe developed for the Department that defines all the programs, functions, and grantees subject to audit. Each year, secretarial offices and administrators are asked for suggested audit areas which they believe should be audited. The suggestions as well as those from the OIG staff usually receive high priority in the annual audit plan.

We then review the audit needs of each administration based on our insight of areas which appear most vulnerable to fraud, waste, and abuse, taking into consideration recent audits which we or the General Accounting Office have performed and the guidance contained in OMB Circular A-73. An annual audit plan is then developed based on the audit capability available and circulated to the administrations. The annual plan is implemented by semiannual audit operations plans which further refine the audit workload. These plans adjust for high-priority audits scheduled after the annual audit plans were developed.

Criteria considered in selecting audit areas are: Dollar amounts involved; results of recent audits; audit cycle; sensitivity of program; vulnerability of program to fraud, waste, and abuse; impact of program; internal controls; legislative interest; GAO audit coverage; and general program environment.

Senator ANDREWS. In developing your audit plan, what kind of coordination is there with the other secretarial offices?

Mr. WELSCH. Prior to developing our annual audit plan, we request from each of the modal administrators any suggestions for areas in which they have an interest, or where there is an indicated problem or a weakness. Where they request audit coverage, we include it in our audit plan for the year to the extent desirable.

We are able to get suggestions from management. They go out to the various levels within their own organizations to get input and they send it to us, and we consider that in developing our audit plan each year.

We also discuss audit needs at senior staff meetings and with the Secretary to determine his interest. Also, we work closely with the budget office to identify any significant areas that they will be looking at in the coming year, so we might include those in considering the development of our audit plan.

GRANT AUDITS

Senator ANDREWS. Your semiannual report stated that much of the audit effort over the last 6 months has been devoted to grant audit work in order to reduce the size of the backlog. How large is your current audit backlog?

Mr. WELSCH. We still have a significant amount of backlog in grant audit work. We are working on that. It is down considerably from prior periods.

Senator ANDREWS. How do you describe it, as the percentage of grants that have not been audited, or time in the pipeline? What yardstick are you using?

Mr. WELSCH. The number of grants outstanding that have not had audit work.

Senator ANDREWS. How many of them are there at the present time?

Mr. WELSCH. That is a changing number. I can give you a current estimate for the record.

Senator ANDREWS. Could you provide for the record what the number is right now; what the number was a year ago; what the number was 2 years ago?

Mr. WELSCH. Yes, we can. When we established the Inspector General in 1979 there was a substantial backlog of grant work to be done. We made a concerted effort to clean up the old grants, using our own resources and also hiring independent public accounting firms to audit grants which were completed but had not received a final audit.

Our grant audit backlog has decreased from 1,411 grants as of March 31, 1981, to 808 grants, as of March 31, 1982—a 43-percent reduction. We are striving to further reduce this backlog while, at the same time, increase our internal audit coverage.

We do not have backlog information for March 1980, because our reporting system had not been refined at that time.

Senator ANDREWS. Were any audits indefinitely or completely foregone? Do you pass over them if they have been laying around for too long?

Mr. WELSCH. We are unaware of any audits indefinitely or completely foregone. If a grant deserves audit treatment, it receives it. There are going to be some grants which we will recommend that no audit work be done on because of the dollar values involved.

In fact, we will be suggesting in a policy statement for the Secretary that he consider directing that grants under a certain dollar level not be subject to audit for closeout purposes. In these cases program managers would review and evaluate the performance of the grantee under the particular grant and make the judgment to close out grants under a certain dollar value.

Senator ANDREWS. But that is not unlike what has been done in the past.

Mr. WELSCH. What has been done in the past is probably similar to that, but it was not the policy. There were administrations which required closeout audits before they would consider a grant completely closed. We believe it is appropriate for management on certain dollar level grants to have the ability to close out the grant and not require a closeout audit.

Senator ANDREWS. Well, I hate to be leading the witness, but you know, our point in making this record is not just to satisfy the curiosity of the subcommittee. We want to have this information when we go to the floor and somebody asks a question about what progress we are making. Also, we want to be able to answer any types of questions we might get from the public or from the press.

I am trying to get information so that if someone asks questions concerning the fact that you are eliminating or reducing the backlog, they cannot make and sustain the point that you are doing so by dumping a bunch of these audits by the side; just cancelling out any efforts to investigate them.

Do you see what I am driving at?

Mr. WELSCH. Yes, Mr. Chairman.

Senator ANDREWS. Now, having given you that insight, how would you respond to that question?

Mr. WELSCH. No, sir, we are not dumping them by the wayside. We are making a concerted effort to close all grants out through appropriate audit coverage.

Once the policy is established, we may not audit some grants if they do not deserve the devotion of audit resources either because of the dollar value involved or the share ratio of the Federal grant with the matching funds at the State level.

If there is a very small contribution at the Federal program level—5 percent—to a particular project and it is a low-dollar grant, then we feel it is inappropriate to devote a lot of audit resources there when we can do better, from the Federal Government's standpoint, devoting those resources to the more sensitive, high-dollar value grants.

Senator ANDREWS. Please discuss the audit cycle concept. How long is your present audit cycle?

Mr. WELSCH. We basically define the audit cycle as the number of years between audits of a program or organization. The audit cycle for many of our programs and activities is between 5 and 10 years. Through our workload planning, priorities are established to assure that sensitive and high-risk areas are covered more frequently but there will be areas where audits will be performed on a very extended cycle.

COSTS QUESTIONED

Senator ANDREWS. Your 1983 budget lists as an accomplishment the identification of $231 million in questioned costs.

Yet, before the House Transportation Appropriations Subcommittee earlier this month you stated that only about 35 to 40 percent of these questioned costs are sustained.

That would seem to indicate that your real savings in taxpayer dollars is significantly lower than your reported questioned costs.

Why do you not report actual savings instead of questioned costs?

Mr. WELSCH. Mr. Chairman, we report both questioned costs and questioned costs sustained. The reporting system of all of the Inspectors General require that we report the amount of costs actually questioned, track those until resolution, and then report "cost recoveries" from "questioned costs."

Senator ANDREWS. Well, your testimony alluded to it. We did not have hard facts. Could you provide those for the record?

Mr. WELSCH. Yes sir.

[The information follows:]

In our semiannual report to Congress we report both the cost questioned and cost questioned sustained—or the actual savings from questioned costs. It is necessary to report both these categories in order to depict the results of OIG operations.

It should be noted that costs questioned relates to audit reports issued during the period. Much of this cost questioned will not be resolved nor the savings realized during the period in which the report is issued.

A table of recoveries for OIG reports issued in fiscal year 1981 is as follows:

DISPOSITION OF FISCAL YEAR 1981 AUDIT FINDINGS

[In millions of dollars]

	Total	External audits	Internal audits
Amount audited	14,300	8,600	5,700
Cost questioned	231	231	
Other dollar benefits	658		658
	889	231	658

DISPOSITION OF FISCAL YEAR 1981 AUDIT FINDINGS—Continued

[In millions of dollars]

	Total	External audits	Internal audits
Disposition of findings—As of Mar. 4, 1982:			
Proposal and overhead costs questioned—No followup on final resolution[1]	92	92	
Recoveries—Findings sustained[2]	185	33	152
Findings not sustained	289	33	256
Unresolved—Awaiting final resolution	323	73	250
	889	231	658

[1] Proposal and overhead costs questioned are not included in recoveries since amounts actually saved cannot be specifically identified.

[2] Recoveries reported in fiscal year 1981 Semiannual Reports—$259 million—to Congress included recoveries relating to audit reports for fiscal year 1981 and prior period reports.

OFFSET IN BUDGET

Senator ANDREWS. That is fine.

Now, of those questioned costs that are sustained, taxpayer dollars are saved. Is there a corresponding offset in the budget request of each administration within DOT?

Mr. WELSCH. Mr. Chairman, I have to assume that there is a corresponding offset, but that it is not specifically identified with each grant or with a particular audit report.

I assume that recoveries and offsets that are the result of audit reports go into the availability pool of the trust fund and result in a net reduction in the request for expenditure authority from Appropriations Committees.

But at this juncture it is not trackable back to an audit report that says, "This was a reduction in the budget authority." It goes back into the trust fund and the net amount required for the current fiscal year is then requested, and that comes into the computation. But I do not believe it is trackable.

FRAUD, WASTE, AND ABUSE IN FEDERAL PROGRAMS

Senator ANDREWS. Well, Mr. Inspector General, it appears that of the billions of dollars obligated by DOT annually a very small percentage is questioned by the Office of the Inspector General. And an even smaller amount of those questioned costs are sustained. Still, the public perceives substantial fraud, waste, and abuse in the Federal Government.

As a matter of fact, I am one of those few Senators who serve on both the Budget Committee and the Appropriations Committee. One of the favorite tasks that we have in the Budget Committee is trying to plug in a figure of $10 billion that we are going to save because of fraud, waste, and abuse—the general public claims it and so does everybody else, but we never quite achieve it.

The fact remains that the public's perception of how Federal programs are operated would lead you to believe that there are, in fact, billions of dollars in fraud, waste and abuse floating around out there that we never quite can nail down.

How can we use the audit work done in your shop—of course, yours is just one of a number of similar shops in the Government and you do not control nearly as much money as other Inspectors General—but how do we use the audit work done in your shop to change the public's perception of how these programs are operated?

Mr. WELSCH. Mr. Chairman, that is a very difficult task, and you are absolutely correct.

Senator ANDREWS. I know that. If I had a simple answer, I would not have asked the question.

Mr. WELSCH. There is no pat answer. I think it is a series of actions that have to be taken.

We are working with the President's Council to develop techniques for informing the public about the work that is being done by the Inspectors General.

We have met with all of the professional associations and societies that deal with the Department of Transportation such as the Highway Association, and we meet with State and local groups, and public accounting firms. We try to convey the message on what the real situation is in each department because I do not think the department is fraught with fraud, waste and abuse. I think there is some. I think we are doing a reasonable job of ferreting it out and identifying it.

Senator ANDREWS. Please be assured that I did not say that there was such abuses. I did say, however, that the perception is broad that there is, even to the point that the Budget Committee identifies all kinds of potential savings through the elimination of fraud, waste, and abuse.

Mr. WELSCH. There have, unfortunately, been some statements made where estimates are given as to how much fraud, waste and abuse there is in the Federal Government. I am not sure that they are completely sound as far as forecasting how many billions of dollars in fraud, waste, and abuse there are in the Federal Government. Undoubtedly, there is some.

I believe we are identifying quite a bit of it. I believe also that the perception is that most of the fraud, waste, and abuse is committed by Federal employees and the Government itself. In the Department of Transportation I know that a good deal of the fraud, waste, and abuse is committed by contractors and/or others against the Department of Transportation.

BIDRIGGING

Senator ANDREWS. But those contractors are on a low-bidder basis, are they not?

Mr. WELSCH. Yes.

Senator ANDREWS. Or are they on a cost-plus basis?

Mr. WELSCH. They are on an advertised fixed price contract basis in many cases. But we have had much in the way of conspiracy in bidrigging and many convictions, and identification of serious amounts of funds that have been overcharged by contractors.

Senator ANDREWS. But this is what you are taking a very close look at, this bidrigging, as I understand it.

Mr. WELSCH. Yes, Mr. Chairman.

Senator ANDREWS. Will you provide for the record what achievements you made in that particular field?

Mr. WELSCH. Yes, sir, I will be happy to.

[The information follows:]

Our efforts have concentrated primarily on federally funded highway construction projects. Our current activity is the result of the successful investigation and prosecution of three construction firms and three company officials for bidrigging on a Federal Aviation Administration funded airport construction project. Development of leads and information has resulted in joint DOT/OIG and Antitrust Division, Department of Justice inquiries in 17 States. These joint efforts have resulted in:

Total indictments	101	46 corporations; 55 individuals.
Total convictions	71	30 corporations; 41 individuals.
Total fines	$6,120,000.	
Grand juries	8.	
Jail sentences	22.7 years.	
Debarments	51 since Oct. 2, 1980.	

INCREASED RISKS

Senator ANDREWS. The Reagan administration has established a goal of substantially reducing employment in the executive branch. Are there any programs in DOT in which these reductions in personnel might lead to increased risk of fraud or abuse of funds?

Mr. WELSCH. Mr. Chairman, I believe that all reductions will have an impact on internal control systems to some extent. We are taking a very close look at them, working with each of the modal administrations on reduction in force trying to assure that reductions will not impact the risk factor in key areas of accounting, procurement, oversight, and inspection responsibilities. There is no question, there will be a higher risk as the oversight for certain Federal programs comes down and the forces available to oversee those programs are reduced.

I think the risk factor will go up. The vulnerability will be higher. We are attempting to work with the administration and adjust our audit programs to identify those areas and take the precautionary actions that we believe are appropriate.

RESPONSE TO RECOMMENDATIONS

Senator ANDREWS. Have the modal administrators and the Secretarial offices, been responsive to your recommendations?

Mr. WELSCH. Yes, extremely so. I would like to add for the record that Secretary Lewis has taken a personal interest in the Inspector General activities, and I meet with Secretary Lewis weekly.

I attend the senior staff meetings, and he fully supports the Inspector General activities and the reports that we issue. He assures that corrective action is taken by getting a report semiannually on all actions that are outstanding for 6 months, with the reason from each Administrator and what they are doing about it.

Senator ANDREWS. Do these groups have any formal course of appeal open to them on decisions they disagree with?

Mr. WELSCH. I am sorry.

Senator ANDREWS. Do they have a formal course of appeal open to them for any decisions that you might make that they disagree with?

Mr. WELSCH. Yes, Mr. Chairman. We have an escalation procedure so that if we do not resolve findings and recommendations at the administration level, we can raise it to the Secretarial level for a final resolution, in which case the Secretary, of course, has the authority to agree with the administration or with the Inspector General.

FOLLOWUP PROCEDURES

Senator ANDREWS. How do you follow up on the actions that are taken in response to your recommendations?

Mr. WELSCH. We have a written response to our draft report which is given to the auditee and the modal administrations. We consider the written response in preparing for the final report, making appropriate changes where necessary. When the final report is issued, if there are open items a written response is required.

We evaluate the written response and if it is appropriate we close the report and so notify the modal administration. If it is not adequate, then we go back to their audit followup official and indicate the reasons we do not feel it is an appropriate action. We resolve it that way and follow up if they have another action planned.

Senator ANDREWS. So, how many of cases of recommendations are being disregarded, do you find?

Mr. WELSCH. A very low percentage, Mr. Chairman. I would suggest less than 1 or 2 percent.

Senator ANDREWS. But you do have a followup to assure they are followed, and also, if they are disregarded you are able to achieve that knowledge so that you can move ahead with your corrective action.

Mr. WELSCH. Yes, Mr. Chairman. We have a secondary followup system. We follow up in the subsequent period to determine that the action in fact was taken and do not rely on a statement. We do something about it, we do a followup review on the major, significant items. Each time we go into an area one of the audit steps is to review prior reports and see if corrective action has actually taken place.

COST BENEFIT

Senator ANDREWS. Again, in the interest of making a record, you were created some 3 years ago. Since that time there has been a concern by many that more money is spent looking for waste and fraud than is actually saved.

Can you provide the committee with a cost-benefit comparison from the Office of the Inspector General over the past 3 years?

Mr. WELSCH. I can supply that. This year we have a goal of about 20 times the cost in recoveries. In the last fiscal year we had $259 million in recoveries, with a budget of about $20 million., So, we are saving substantially more than we spend.

Senator ANDREWS. If you could provide the other years' comparisons, it would be interesting for us to have.

[The information follows:]

During fiscal year 1981, actual OIG expenditures were $21.5 million. During the same period, audit recoveries, fines, penalties, and other investigative recoveries totaled $263 million—more than 12 times the amount spent.

We now have the capability to generate these comparisons from a relatively sophisticated management information system. Our current system underwent a dramatic evolutionary process during fiscal years 1979 and 1980 when the audit and investigative resources of various modal administrations were being drawn together and standard criteria for savings measurement were being developed. During these 2 fiscal years, greater reliance was placed on other standards of measurement, such as total costs questioned and total estimated other dollar benefits. During fiscal year 1980, total costs questioned were $154.3 million and other dollar benefits were $128.5 million compared with OIG expenditures of $19.7 million.

Since the OIG was officially formed on February 25, 1979, comparable statistical and budgetary information for fiscal year 1979 is unavailable.

OUTPUT MEASUREMENT

Senator ANDREWS. Also, if you could provide for the record the way you measure your output and your achievements, that would be helpful.

Mr. WELSCH. Yes, sir.

[The information follows:]

Quantitative measures such as number of audits made, cost questioned, other dollar benefits identified, cost recoveries and improvements in management control systems are used to measure output. These measures are related to staff days expended to complete the end product—that is, audit reports—to determine how efficient we are operating. These quantitative measures along with subjective judgments on the quality of our reports are used to determine our overall level of achievement.

Output and achievements for investigations are measured by the number of cases opened and closed, the number of indictments and convictions, the amounts of fines, recoveries, restitutions, and the years of imprisonment. For administrative actions resulting from investigations which are not prosecuted, achievements are measured by the number of suspensions, restitutions, official reprimands, corrective policies implemented, and debarments.

Cost avoidance and identification of systemic weaknesses and recommendations for corrective measures, although hard to measure, are definitely important achievements.

SUBMITTED QUESTIONS

Senator ANDREWS. I also have a list of questions for the record, and some questions from some of the individual members of the subcommittee that we would like to have you answer for the record.

I appreciate very much, Mr. Inspector General, your being here. You made a very good statement.

Mr. WELSCH. I appreciate the opportunity to testify today. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

CIRCULAR A-102

Senator Andrews: Attachment P of OMB Circular A-102 was introduced to lessen the number of Federal audits of contractors and grantees. How have you progressed toward full implementation of this provision?

Response: Attachment P of OMB Circular A-102 is progressing toward full implementation in the Department. To make the transition from audits of single grants to Attachment P type audits, the OIG met with all operating administrations to coordinate the new audit requirements. Departmental instructions now require a grantee to arrange for the necessary audit work as a condition of the grant. The OIG no longer performs audits which are the responsibility of the grantee except for grants made before the implementation of A-102, Attachment P. For the period April 1 through September 30, 1981, the OIG processed 51 A-102 Attachment P audits as detailed in our semiannual report. We are hopeful that this number will double in the next 6 month period. OIG procedures are in place to assist non-Federal auditors in complying with the standards established by the Comptroller General as mandated by the Inspector General Act of 1978.

INTERNAL AUDITS

Senator Andrews: With Attachment P therefore reducing the number of external audits each Federal agency must undertake, have you been able to reassign staff to perform more internal program audits?

Response: Recognizing that as grantees assume their audit responsibilities under Attachment P regional audit staff functions would change, the regions have been directed to shift their audit resources from grant audits to internal program audits. Between 1979 and 1982, regional offices have been instructed to increase available staff days spent on internal program audits from 25 percent to 75 percent. Significant progress has been made toward this goal.

Senator Andrews: In your opinion, does your staff have the necessary background to effectively make this kind of transition? Do you foresee the need for any special training?

Response: We believe that the regional audit staffs generally possess the background needed to assume additional responsibilities associated with conducting internal program audits. Since the formation of the Inspector General in the Department of Transportation in 1979, Regional Managers have taken necessary steps to assure that staff members received experience in planning, conducting and reporting on internal program audits in addition to conducting grant audits. Furthermore, audit teams conducting internal program audits are supervised by senior staff members who are experienced in performing such reviews.

It is anticipated that staff members will receive continuous on-the-job training in performing internal program audits. Supervisors will identify training needs and recommend appropriate formal training. This training can be satisfied through existing courses in the public and private sector. We do not foresee a need for special training.

OIG REORGAIZATION

Senator Andrews: Now that the reorganization of the OIG field offices has been completed, what is your opinion of the current structure? How do you see it helping the agency?

Response: The field office reorganization has proved beneficial because it has facilitated full utilization of staff members in accordance with workload priorities instead of tailoring assignments to the geographical location of the staff.

The reorganization has facilitated the agency because it has allowed managers to assign workload based on the priority of the assignments rather than have workload assigned based on the location of the staff. This has allowed for greater emphasis in higher priority areas.

Senator Andrews: Do you have any plans to further reorganize OIG field offices? Do you have any headquarters reorganization plans?

Response: Reorganization occurring within other Administrations in the Department may necessitate further adjustments in the OIG field office structure. However, no major reorganization of the OIG field office structure is anticipated.

The Headquarters staff was reorganized and the Office of Special Programs and Evaluation was eliminated. These functions were realigned among existing offices; increasing the staff devoted to line operations. At the present time, we have no further reorganization plans for the headquarters.

PERSONNEL REDUCTIONS

Senator Andrews: For Fiscal Year 1983 you are requesting 436 full-time equivalent positions, a decrease of 27 from 1982. What effect have these type of reductions had on your overall ability to fulfill your agency mission?

Response: Further refinement of our workload universe will be necessary, striving to assure that sensitive and high risk areas are covered. This process will require adjustments to our current audit and investigative processes.

We plan to perform several fraud prevention surveys. The thrust of this activity will be a systematic analysis of programs to correct observed weaknesses and to mitigate possible potential problem areas.

We are constantly seeking ways to increase productivity from existing resources. We are confident that we will be able to sustain an adequate level of effort to respond to the needs of the Department and fulfill our responsibilities under the Inspector General Act.

Senator Andrews: Will these reductions increase your backlog of audits or will other areas be reduced?

Response: Audit and investigative activity could be described as a level of effort. Although there are specific responsibilities mandated by statute, the scope of an audit or investigation can be expanded or contracted to some degree in response to the availability of resources. By focusing on high priority, more sensitive areas we hope to mitigate the effects of a reduction in staff.

We are also emphasizing full implementation of OMB Circular A-102 which places responsibility for audit on recipients of Federal Grants. We are hopeful that progress in implementation of A-102 will preclude increases in backlogs and cycles, but it is too early to determine if this will be the case.

MARAD TRANSFER

Senator Andrews: What has been the difficulties for the OIG with the transfer of the Maritime Administration to DOT?

Response: We have had no major difficulties with the transfer of the Maritime audit function to the OIG. The OIG's Office of Aviation, Research, and Maritime Programs will have audit responsibility for all internal audits of the Maritime Administration (MarAd) headquarters. This office is currently completing a preliminary survey of the MarAd headquarters functions and responsibilities and has identified the audit workload universe.

We are currently prioritizing the workload taking into consideration potential areas subject to fraud and abuse, current and recently completed General Accounting Office audits and the reduction being proposed by the Administration. Once the audit workload has been prioritized, audits will be done on a three to five year cycle.

Studies are underway to determine the most efficient way to accomplish the external audit workload of carriers and shippers. These studies should establish industry's responsibility in preparing and submitting accurate claims to MarAd and the OIG's responsibility in auditing the claims.

Senator Andrews: In January 1982, MarAd transferred 19 permanent positions and associated funding to OIG for audit support. How were these numbers determined? Are you satisfied with these resources? Will other OIG staff currently working in other areas be reassigned to work on MarAd?

Response: The 19 audit positions tranferred from MarAd were those positions identified with the following functions which were transferred to the OIG:

- Preaward and final payment cost audits related to operating and construction subsidies.
- Cost audits in support of subsidy rate determinations.
- Internal control review of ship operators and builders to include compliance with provisions of subsidy agreements.

The funding transfer of $800,000 were those costs associated with these positions, to include pay, rent, telephone, supplies, contract audits and travel.

These numbers were negotiated between MarAd and the OIG. Both parties were in agreement with the amounts transferred. MarAd workload will be integrated into the OIG and will be accorded the same attention as the other Administrations within DOT.

FRAUD PREVENTION AND DETECTION

Senator Andrews: Please discuss your fraud prevention and detection survey. How do you plan to use the results of this survey?

Response: We recently completed a pilot survey which focused on negotiated settlements and contractor claims on a DOT-funded construction project. The survey disclosed a number of vulnerabilities in the transactions reviewed, including inadequate documentation, one-on-one settlement negotiations, improper waiver of audit requirements, after the fact justification of contract settlements, and acceptance of gratuities. Specific instances were developed which may require further audit or criminal investigative action, and appropriate referrals were made. We believe that further specifics at this time could adversely affect potential audit or investigative followup action.

We are presently refining this survey and formulating general procedures which will enable our field audit and investigative personnel to conduct future surveys.

GENERAL ACCOUNTING OFFICE

Senator Andrews: What is your relationship with the General Accounting Office? In your opinion, how could this relationship be improved? How do you coordinate your audit activities to ensure no duplication?

Response: It is OIG policy to cooperate fully with the GAO to avoid duplication of effort and to maximize the utilization of resources. We provide GAO with our annual audit plan and audit reports. Information on audits in progress is also provided to GAO upon request. Potential conflicts or duplication in audit effort are discussed with GAO and usually resolved to the mutual benefit of both parties. In some instances, we must change our audit plans to avoid duplication. GAO provides us with announcements of scheduled reviews and furnishes us with copies of all GAO reports issued to the Department.

The OIG has a good working relationship with GAO. We will continue our efforts to facilitate the exchange of information on audits performed or planned in order to resolve potential conflicts or dupliction of audit effort.

EXTERNAL AUDITS

Senator Andrews: Please discuss your relationship with the Defense Contract Audit Agency. When a DOT grantee or contractor has a DOD contract, does OIG always rely on DCAA to perform the audit?

Response: The DOT/OIG has an agreement with DCAA indicating that DCAA will accept contract or grant audits in all cases where DCAA has audit cognizance because of DOD work. DCAA has also agreed to accept other contract audits where it is deemed to be in the best interest of the Government. As a result, most of DOT/OIG contract audits are performed by DCAA. In some cases where DCAA has no audit cognizance, we will assign the audit work to the DOT/OIG Regional Offices.

Senator Andrews: Do you ever utilize other outside organizations to perform external grant or contract audits?

Response: Yes, we have utilized Department of Health and Human Services, Department of Energy, Department of Interior, and Independent Public Accountants to perform external grant or contract audits.

COUNCIL ON INTEGRITY AND EFFICIENCY

Senator Andrews: Please discuss your role on the President's Council on Integrity and Efficiency. What benefits have been directly attributable to DOT from this Council?

Response: As a member of the President's Council, the Inspector General participates in the monthly meetings. In addition, the OIG submits significant audit and investigative findings, new or innovative audit or investigative techniques, and other items of interest to the Council staff for inclusion in a highlights report. This report is prepared by OMB staff and is issued by the Council to disseminate the above type of information to all of the members. It is a means of communicating findings or areas of weakness to all Inspectors General and is also used to keep the Council Chairman informed of areas of interest.

We are members of active committees of the Council which include the Legislative Committee, Administrative Remedies, and Incentive Committee and the Performance Evaluation Committee. The Council has established several Federal Government-wide audit projects. The DOT/OIG is responsible for two: contract change orders on construction contracts, and federally funded construction projects. This is the first major effort to coordinate and perform executive branch-wide reviews of Inspector General organizations.

The President's Council is an active and effective activity facilitating the accomplishment of government-wide reviews and improving the effectiveness and efficiency of Inspector General operations.

AUTOMATIC DATA PROCESSING AUDIT GROUP

Senator Andrews: The Automated Data Processing Group was established in September 1981, to audit the different ADP systems within DOT. What was the stimulus in creating this Group? What is the scope of this group's investigations? Are there any early findings?

Response: The ADP Group was established in response to OMB Circular A-71 which requires evaluations of the security of sensitive automated systems and in response to GAO's report on the need to develop greater computer audit capabilities in Federal Agencies.

The Group plans to conduct periodic audits of high risk automated information systems. Progress to date has been the identification of the computer audit universe and a survey of the Department's computer operations.

The initial audit effort was a review of the security, control, and auditability of the automated uniform payroll system. Findings from this have not been finalized. Four additional computer audits are scheduled for the balance of Fiscal Year 1982.

CRIMINAL PROSECUTION

Senator Andrews: At what point in an investigation do you refer a case to legal authorities such as the FBI? How often in the past three years have you done this and what has been the final result of these cases?

Response: The OIG normally refers an investigation to the Department of Justice (DOJ) when there is reason to believe a Federal law has been violated. At the direction of DOJ, we have also referred two investigations to state and local prosecutors.

During the past 3 years, we have referred approximately 160 matters for criminal prosecution. Eighteen cases resulted in convictions, two in pre-trial diversions, and three in the dismissal of charges or acquittals. The two cases referred to local prosecutive authorities resulted in convictions of three individuals.

In approximately the same period we referred 27 investigative matters directly to the FBI for their handling and disposition.

The above data is in addition to the 71 convictions for bidrigging obtained through our our joint efforts with the DOJ Antitrust Division.

HIGHWAY TRUST FUND

Senator Andrews: Why are no funds proposed to be transferred from the Highway Trust Fund, as has been done in the past?

Response: During the establishment of the OIG, it was decided that the Federal Highway Administration would reimburse the OIG for audit and investigative services rendered. It is proposed that the OIG be funded all by appropriation; eliminating the transfer from the trust fund because:

- No other Administration within the Department of Transportation is required to reimburse OIG for services rendered.
- The OIG should establish audit and investigative priorities taking into consideration all programs within the Department and their vulnerability to fraud, waste and abuse. By requiring a certain level of effort for one Administration, it could distort priorities, which would not be in the best interest of the Department as a whole.

BUDGET JUSTIFICATION

Senator Andrews: In your Object Classification Table, Line 25.0, Other Services seems to have increased substantially over the 1982 amount. Please explain this fluctuation and provide for the record a breakout of the composition of the 1983 amount.

Response: The major increase in the other services object class is for contract audit support. We will be conducting some catchup audits in 1983 due to reductions in this area during 1982.

In addition, we will be providing the Maritime Administration a substantial amount of contract audit support. Another factor which has contributed to the appearance of a large increase in this area was the requirement to reallocate object class 25 funds to cover increased pay costs pending final determination of appropriate funding sources.

A breakout of other services for FY 1983 follows:

Expense	$ in Thousands
Training	$ 170
Working Capital Fund Charges	763
Security Investigations	100
Building Repair and Maintenance	30
Storage of Household Goods	15
Contract Audit Support	
Defense Contract Audit Agency	2,000
Department of Health and Human Services	150
Other Departments	15
Independent Public Accountants	830
Other Reimbursable Agreements	315
	$ 4,388

QUESTIONS SUBMITTED BY SENATOR CHILES

TRANSFER FROM FHWA

Senator Chiles: While the FY 1983 request of $24,946,000 is a considerable increase from the $13,047,000 appropriated last year, 79% or $9,355,000 of the increase is explained by the transfer of auditors and investigators from the Federal Highway Administration (FHWA) to the Office of Inspector Gereral (OIG). Why are these positions being transferred to OIG? Will this require the Federal Highway Administration to hire additional positions?

Response: There is no proposal to transfer resources from FHWA for FY 1983. The proposal is to fund all OIG activities by direct appropriation starting in FY 1983.

DUPLICATION OF EFFORT

Senator Chiles: Last year the committee was told (p. 369) that there is no duplication of audit and investigative efforts between the OIG and the individual agencies. How do you insure that this continues to be the case? Specifically, what guidelines exist to prevent this overlap of activity?

Response: To our knowledge there is no duplication of audit and investigative efforts between the OIG and Departmental elements.

The OIG has issued a memorandum to all Secretarial offices and Heads of DOT Operating Elements which sets forth the OIG audit and investigtive responsibilities to ensure, among other instructions, that the OIG audit and investigative responsibilities are clearly understood.

While we do not have auditors in the modal administrations who are conducting audits, the FAA and Coast Guard have some inspectors and investigators who conduct specific program inspections or investigations that are outside the purview of our office.

VULNERABILITY ASSESSMENTS

Senator Chiles: Last year (p. 387) the committee was told that OIG had recently "ranked all DOT programs and operations": regarding fraud and abuse vulnerability. What DOT programs in rank order are relatively more susceptable to fraud and abuse. For each program please explain what creates this condition of vulnerability and what can be done to reduce the risk.

Response: The ranking of DOT programs was a preliminary attempt by the OIG to establish an order of priority.

The risk level analysis was based on a number of factors such as newness of the program, prior audit and investigative experience, the adequacy of internal controls, etc. These factors were reduced to mathematical scores and weighted as to the signficance of the risk level.

It should be pointed out that these types of analysis, at best, are merely indicators and are subject to constant change as we gain more experience.

Senator Chiles: Why is OIG proposing to spend 8 work years on vulnerability assessments in FY 1983 if OIG, as we were told last year, has already "ranked all DOT programs and operations" in this regard.

Response: DOT programs and operations were primarily ranked on the basis of vulnerability assessments to determine their susceptibility to fraud and/or abuse and to establish an order of priority. This type of review is preventative in nature and is intended to identify opportunities for impropriety rather than detecting the occurrence of fraud and/or abuse. The 8 work years projected for FY 1983 are primarily for the performance of fraud prevention and detection surveys to systematically analyze programs and operations susceptible to fraud, and to evaluate the adequacy of controls to determine if identified weaknesses have been exploited.

IMPLEMENTATION OF OMB CIRCULAR A-102

Senator Chiles: I noticed that the OIG (p. SE-7) plans to fully implement OMB Circular A-102 this year. Circular A-102 prescribes that recipients of Federal grants must obtain independent audits every two years in accordance with prescribed standards and appropriate oversight by Federal auditors. These audits will then be relied on by all Federal agencies to avoid duplication of audit effort and should decrease the need to perform external audits.

Last year the commitee was told (p. 365) that it was too early to determine the overall impact on manpower savings from full implementation of A-102. What is your estimate this year of manpower savings? If there is none, why not?

Response: We have been able to redirect our audit efforts from grant audits to internal audits of DOT programs and activities. In FY 1980, 59% of our direct audit staff hours were devoted to non-grant audits. This percentage rose to 68% in FY 1981 and is expected to rise to 75% in FY 1982. Therefore, we have been able to apply more of our audit resources to program and functional audits because of the implementation of A-102.

BIDRIGGING INVESTIGATION

Senator Chiles: What is the status of the bidrigging investigation? For each state involved, please provide a brief status report and the time-line for completing the investigations.

Response: Investigative efforts have concentrated primarily on Federally funded highway construction projects and have been closely coordinated with the Antitrust Division (ATR), Department of Justice.

Joint OIG/ATR investigations have involved 17 states and resulted in:

Total Indictments - 101 (46 corporations; 55 individuals)

Total Convictions - 71 (30 corporations; 41 individuals)

Total Fines - $6.12 million

Grand Juries - 8

Prison Sentences - 22.7 years

Debarments - 51 (since October 2, 1980)

Due to indications that bidrigging on highway construction projects may be prevalent in other states, we plan to expand investigations. Progress will be influenced by resources available within OIG and ATR and by the domino effect we have experienced, where one case often generates leads for parallel investigations.

We believe the potential also exists for expanding to construction programs funded by the Federal Aviation Administration, Urban Mass Transportation Administration, and the Federal Railroad Administration.

To assist in these bidrigging investigations we intend to initiate a pilot project, using a contractor's computerized bid and market analysis system to determine if anticompetitive practices exist. If the project proves successful, we plan to use the methodology elsewhere. We believe it can produce the following results:

- Maximize use of investigative resources.
- Reduce case completion time.
- More criminal prosecutions.
- More civil recoveries.
- An option for a routine bid-monitoring system.

Because of the nature of the process in these investigations, we are unable to estimate completion times with any degree of certainty. The domino effect described earlier dictates continuing investigative effort until all logical leads concerning possible criminal activity have been exhausted. Grand jury and trial processes also influence the completion time of any inquiry.

The OIG has been or is involved in bidrigging investigations in the following states:

Florida
Georgia
Kansas
Kentucky
Louisiana
Mississippi
North Carolina
Pennsylvania
South Carolina
Texas
Virginia

HOTLINE COMPLAINTS

Senator Chiles: I noticed (PSE-8) that the OIG responded to 350 hotline complaints last year and that (PSE-15) "a vast majority of the complaints processed related to alleged wrongdoing with a relatively low level of impact."

Please provide a table that shows a distribution of the 350 complaints by agency and program.

Response: The following tables reflect the distribution of 350 hotline complaints received during FY 1981, by agency (DOT element) having primary interest, and by type of complaint.

DOT ELEMENT	NUMBER OF COMPLAINTS
Federal Aviation Administration	215*
Federal Highway Administration	37
U.S. Coast Guard	31
Urban Mass Transportation Administration	18
Office of the Secretary	17
Federal Railroad Administration	12
National Highway Traffic Safety Administration	9
Research & Special Programs Administration	2
Other	9
TOTAL	350

*Most of the DOT civilian work force is assigned to the FAA, accounting for the larger share of total complaints.

TYPE OF COMPLAINT	NUMBER
Time and Attendance	41
Contracts	30
Grants	19
Imprest Funds	2
Personnel Matters	62
Mismanagement	123
Purchase Orders	2
Regulatory	15
Travel Funds	13
Property	43
TOTAL	350

AUDIT FOLLOWUP

Senator Chiles: One of the most important responsibilities of an OIG is to recommend actions which will improve agency programs. The Department of Transportation houses many agencies with important missions, such as the Coast Guard, Federal Aviation Administration, and Federal Highway Administration. In this day and age with tightening budget restrictions it becomes increasingly important that these agencies spend every Federal dollar wisely and efficiently.

Have DOT agencies been responsive to OIG recommendations, or have there been difficulties in getting these agencies to accept your recommendations? What procedures are followed when a disagreement occurs between OIG and an agency over the need for a program change?

Response: DOT agencies have been responsive to OIG recommendations. Their efforts to resolve audit reports have been particularly intense during the last semiannual period. The success of this effort can be attributed in large part to the personal interest that the Secretary and each of the Adminstrations have taken in the resolution process.

In those instances where the management official and the OIG do not agree on a proposed audit finding resolution, the OIG will attempt to resolve the matter with the next higher level of operating management directly concerned. The OIG will, on a monthly basis, submit to the head of the Operating Administrations for resolution, unresolved findings over 90 days old.

Senator Chiles: Could you explain your system for following up on agency actions taken on your recommendations, and what happens when an agency does not take action on a recommendation?

Response: Followup is a continuous process of ensuring that prompt and responsive action is taken on findings and recommendations contained in audit reports. The primary responsibility for action and followup on audit recommendations rests with the responsible management official. The management official informs the OIG on the action it plans to take to resolve the recommendation. If the OIG agrees with the action it is considered resolved and the savings, if any, are recorded. On a selective basis, the OIG will review management's implementation of the proposed action to determine its effectiveness.

Senator Chiles: How would you characterize your relationships with other DOT agencies?

Response: We have a positive and cooperative working relationship with other DOT agencies. An indication of the cooperation we are experiencing is the increasing number of requests for audits and investigations received from Departmental officials.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

STATEMENT OF DAVID W. OBERLIN, ADMINISTRATOR

ACCOMPANIED BY:
WILLIAM H. KENNEDY, ASSOCIATE ADMINISTRATOR
EDWARD MARGOSIAN, COMPTROLLER
ROBERT D. KRAFT, DIRECTOR, PLANS AND POLICY DEVELOPMENT
ROBERT J. LEWIS, DIRECTOR, SYSTEMS ANALYSIS

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order. We now will hear from the Saint Lawrence Seaway Development Corporation. We have today Mr. David Oberlin, the Administrator, Bill Kennedy, the Associate Administrator, and a number of their colleagues.

You may be assured that your statement will appear in the record in full. If you can summarize it, we will get to the questions and develop the record this morning.

INTRODUCTION OF ASSOCIATES

Mr. OBERLIN. Thank you, Mr. Chairman.

I would like to introduce at the left end of the table Mr. Robert Lewis who is our Director of Systems Analysis; next to me, Mr. Bob Kraft who is Director of Plans and Policy Development; you mentioned Mr. Kennedy, and Mr. Ed Margosian, our Comptroller.

I am pleased to be here today to present the Corporation's fiscal 1983 budget estimates. During 1981, the cargo moved through the Montreal-Lake Ontario section of the Seaway totaled 50.6 million metric tons, an increase of 2.3 percent from last year.

Despite this tonnage increase, however, and internal economies, our costs continue to rise and we are experiencing a significant revenue shortfall, as is our Canadian counterpart, the Seaway Authority.

As a result, we undertook a year-long Seaway toll negotiation with the Seaway Authority of Canada and on December 4 reached agreement for revision to the joint tariff of tolls. We raised charges on the Montreal to Lake Ontario section by 29 percent; we raised them 15 percent in 1982 and 8 percent for the year 1983. We share this section with the Canadians.

For commercial vessels transiting the entire system, the overall increase is 18 percent in 1982 and 10 percent in 1983.

These increases are absolutely necessary to meet the rising costs to the Corporation and the Authority which result from continued inflation. A new tariff is reflected in the 1983 budget submissions and is not expected to seriously impact on the future growth of Seaway traffic.

BUDGET ESTIMATES

Mr. Chairman, when these budget estimates were prepared, our forecasts for 1983 indicated the revenue should be about $15 million. Since that time, however, it has become apparent that traffic levels may not recover as rapidly as we anticipated. Therefore, this income estimate may be somewhat higher than the income actually realized.

We realize if that happens we will have to do what we have done in the past, live within our income. For fiscal 1983 we are planning to apply revenues to the following programs: Operations, $8.7 million; administrative, $1.7 million; bond redemption, $2 million, and to the extent that funds are available, $1.9 million for replacements and improvements and $800,000 to help replenish our depleted reserves.

While we may face lower revenues than originally anticipated, we believe we can continue to operate the system in a prudent and efficient manner. As part of effectively operating the Seaway we are continuing to take action to reduce costs, and we plan to utilize any savings we may make to meet the increased costs of maintaining the aging facility.

PREPARED STATEMENT

We are providing a vital transportation artery to the economy of the Midwest region and we plan to continue to operate in a safe and efficient manner.

Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF DAVID W. OBERLIN

I am pleased to appear before your committee to present the Saint Lawrence Seaway Development Corporation's Fiscal Year 1983 budget estimates.

1981 Season Opening

The Seaway's 1981 shipping season got under way on March 25--the second earliest opening date in history for the Montreal-Lake Ontario and Welland Canal sections of the Seaway. Contributing to this record was unusually mild weather. On this upbeat note, the Seaway Corporation went on to experience what I view as a good year in accomplishing our objectives.

Cargo Highlights

During 1981, the cargo moved through the Montreal-Lake Ontario section of the St. Lawrence Seaway totalled 50.6 million metric tons, an increase of 2.3 percent from last year. Our return to tonnages in the 50-million bracket is encouraging for all concerned with Seaway commerce. I am hopeful that these latest statistics signal a reversal of previous downward trends. Considering the general condition of our Nation's economy last year, the Seaway's performance is a significant achievement which I hope can be exceeded in 1982.

Including 1981 totals, cumulative tonnage transported on the Seaway since its opening to deep-draft navigation in 1959 amounts to over 948 million metric tons. A slightly improved year in 1982 would help us attain the significant milestone of one billion tons in just 24 seasons.

1981 Closing

Procedures in effect during the December 1981 season closing period were essentially the same as those employed the previous two years. The last commercial vessel cleared the easternmost Seaway lock the afternoon of December 20, and the Seaway Corporation closed the U.S. locks for winter maintenance and structural repair on December 21. Overall, the 271-day shipping season last year equaled the records set in 1975 and 1980.

Condition of Locks

Early in 1981, the Harza Engineering Company of Chicago completed a study for the Seaway Corporation that analyzed the Corporation's past lock maintenance efforts and made recommendations for future maintenance work.

The engineering consultants recommended that the Seaway Corporation should plan on continuing its million-dollar-plus lock maintenance program at the two U.S. locks through the mid-1990s. They indicated that the Snell Lock was in good condition, and recommended that the current intensive schedule of concrete repairs at Eisenhower Lock should be followed in upcoming years to insure the integrity of that facility.

In addition to urging continued concrete repair, the consultants also made recommendations for structural, mechanical and electrical repairs to both locks that may cost the Seaway Corporation an additional $13.5 million--$8.5 million over the next five years and $5 million in six to 15 years. A major portion of this cost, however, may prove unnecessary if tests by the Seaway Corporation over the next year show no serious lock stability problem arising from the backfill and groundwater behind the locks' walls.

As I speak to you now, our Seaway Corporation forces are winding up another large-scale winter maintenance program at our two locks in Massena. While some mechanical repairs are being made at Snell Lock, most of this winter's program has concentrated on concrete repairs at Eisenhower Lock. Overall, this maintenance program for the third consecutive year is costing us about $1 million and as our consultants have indicated, this is an expense we are going to have to bear for at least another 10 years.

Administration Building Reconstruction

Mr. Chairman, you may recall that over the Labor Day weekend in 1980, unknown arsonists/burglars set fire to our administration building in Massena, New

York. The structure suffered serious damage and those employees who had offices in the building had to be relocated to trailers. Fortunately, none of our people were injured, but the costs for recovery efforts, relocation and temporary quarters for personnel, restoring communications, files, etc., and reconstruction and refurnishing of the building are expected to total about $3 million. This is being funded by borrowings.

I am pleased to report, that we have made substantial progress in overcoming this adversity. In early June, a contract was awarded to reconstruct the building. Work was begun soon after the contract award and approximately 85 percent is now completed. Plans call for the building to reopen in early May.

Development Activities

Revenue constraints have made us curtail our level of participation in development programs, but I believe we still managed to have a highly productive year in 1981. Activities included printing several important publications to provide the trade with statistical data and to promote Seaway commerce, continued research into an all-weather navigation system on the St. Lawrence River, continued work on a joint U.S.-Canada commodity flow forecast study to help us plan future Seaway navigation improvements, and the completion of an important Great Lakes marketing strategy study that we funded.

Toll Increase

The Seaway Corporation concluded year-long Seaway toll negotiations with the St. Lawrence Seaway Authority of Canada. On December 4, we announced the agreement for revisions to the Joint Tariff of Tolls, raising charges an average of 18 percent in 1982 and 10 percent in 1983 for commercial vessels and cargoes transitting the entire Seaway between Montreal and Lake Erie. These increases were absolutely necessary to meet the rising costs resulting from continued inflation. The new tariff is reflected in the 1983 budget submissions and is not expected to seriously impact on the future growth of Seaway traffic.

Debt Repayment

During FY1982 the Corporation redeemed $2 million of its revenue bonds issued to the U.S. Treasury, bringing the total principal repayment to date to $26.5 million. The current balance of outstanding bonds is $110 million and we plan to meet the FY1983 payment of $2 million.

Budget Estimates

Mr. Chairman, when these budget estimates were prepared our forecast for FY1983 indicated that revenues should be about $15.1 million. Since that time it has become apparent that traffic levels may not recover as rapidly as we anticipated. Therefore, this income estimate may be somewhat higher than the actual income realized. If that happens, we will do as we have in the past: live within our income. We plan to apply these revenues to the following programs: operational and administrative expenses estimated at $10.4 million, $2.0 for the redemption of revenue bonds due, and to the extent funds are available, $1.9 million for replacements and improvements and $0.8 to replenish depleted unobligated reserves.

Administrative Expenses (Limitation)

The Administrative Expenses Program (Limitation) reflects an increase from $1.6 million in 1982 to $1.7 million in 1983. This increase of about 6% represents annualization costs, within grades, and increased cost of supplies and services. The increase in FY1983 for other services also reflects an adjustment in FY1982 to accommodate the October 1981 pay raise, pending a later determination of the need for an increase in the limitation.

Operations Estimates

The Seaway Coporation's operations program consists of vessel traffic control, marine and lock operations, maintenance, operational planning and development, engineering and other activities related to the operation, maintenance and development of the St. Lawrence Seaway system. To perform these functions our operations program is estimated at $8.7 million for FY1983, an increase from

$8.4 million in FY1982. This increase of only 3.6% represents additional lock work, wage board annual salary adjustment, and annualization costs.

Replacements and Improvements Estimates

The Seaway Corporation's replacements and improvements program is estimated at $1.9 million for FY1983. This program provides for work on a lock gate assembly area, and on lock flushing ports. Along with the St. Lawrence Seaway Authority of Canada, the Corporation will evaluate alternative navigation systems combining precise all-weather navigation aids with new or conventional aids. In addition, it plans to continue to refine an existing mathematical model to identify reaches of the river where improvements are needed to increase system capacity and decrease vessel transit times. The Seaway Corporation will accomplish benefit/cost analyses in the Ogden Island Model Design study, develop specific plans for improvements with the Seaway Authority of Canada and the power entities, undertake lock machinery control improvements, and replace worn-out equipment, machinery and tools.

Mr. Chairman, though we may face lower revenues than originally anticipated, we believe we can continue to operate the U.S. part of the Seaway system in a prudent, efficient, and business-like manner. As a part of effectively operating the Seaway, we have taken action to reduce costs and utilize these savings to do more to keep up on new technology and increased costs of maintaining an aging facility. We are providing a vital transportation artery to the economy of the region and plan to continue to operate in a safe, effective and efficient fashion.

I would be pleased to answer any questions the Committee may have at this time.

BIOGRAPHICAL SKETCH

David W. Oberlin was appointed by the President to a seven-year term as Administrator of the Saint Lawrence Seaway Development Corporation on February 27, 1976. Mr. Oberlin has served as the Seaway Corporation's Administrator under six Secretaries of Transportation since his original appointment by the President in August 1969. The Seaway Corporation is a self-sustaining operating administration in the U.S. Department of Transportation, and is responsible for the development, operation and maintenance of the Seaway within the United States.

Under Mr.Oberlin's leadership, the Seaway Corporation has achieved a number of significant milestones: new season tonnage records for the Seaway were established; legislation was passed designating the Great Lakes as a fourth national seacoast; the Seaway Corporation's financial position has substantially been strengthened; and the navigation season on the waterway has been significantly extended.

In January 1973, Mr. Oberlin was awarded the Secretary of Transportation's gold medal in recognition of his outstanding leadership in international maritime affairs. Two years later, the Secretary of Transportation appointed him to temporarily head and organize a new Office of Deepwater Ports.

Prior to joining the Seaway Corporation, Mr. Oberlin held various managerial posts in the Great Lakes-Seaway maritime field for approximately 12 years. He was the port director for the Seaway Port Authority of Duluth, Minnesota, from 1967-69, and was associated with the Toledo-Lucas County Port Authority, Toledo, Ohio, from 1958-67. He was assistant secretary and fiscal officer for the Toledo Port Authority and served five years as its manager of trade development.

Mr. Oberlin was graduated from the University of Michigan in 1948 with a BS degree in engineering. In 1980, the University presented him its Regents' Citation of Honor and that same year he received the Distinguished Alumni Achievement Award from the University's College of Engineering. During World War II, he served with the U.S. Navy Submarine Service and returned to the Navy for two years of active duty during the Korean conflict. His military decorations include the Silver Star.

Presently, he is vice president and a director of the Seaway International Bridge Corporation -- a Canadian Crown corporation; and serves as a member of the Board of Visitors of the Great Lakes Maritime Academy.

WILLIAM H. KENNEDY

Associate Administrator and Resident Manager

St. Lawrence Seaway Development Corporation

Type Appointment: Senior Executive Service
Career

Date of Birth: April 23, 1920

Education:

B.S., State University of New York, College of Environmental Science and Forestry at Syracuse University (1949)

Professional Management Program, American Management Association, New York City (1962)

Program for Senior Managers in Government -- Harvard Business School and the Kennedy School of Government (1978)

Professional Experience:

1973-1976	Assistant Administrator and Resident Manager, Office of the Resident Manager, Saint Lawrence Seaway Development Corp.
1972-1973	Director of Operations, St. Lawrence Seaway Development Corp.
1969-1972	Vice President and General Manager of Paper Machine Division, Black Clawson Company, New York.
1964-1969	President and General Manager, Black Clawson-Kennedy, Ltd., Montreal, Quebec.
1959-1964	Staff Sales Engineer and Sales Manager, Black Clawson Company, New York.
1957-1959	Project Manager, Plant Expansion Program, Nekoosa-Edwards, Port Edwards, Wisconsin
1956-57	Sales Engineer, Black Clawson Company
1949-1956	Assistant Paper Mill Superintendent, Hammermill Paper Company, Erie, Pennsylvania.
1942-1945	Military Service, U.S. Marine, Staff Sgt.

Honors and Awards:

Elected a Fellow in TAPPI (Technical Association of the Pulp and Paper Industry) -- 1963.

Appointment as Member, U.S. Section, International St. Lawrence River Board of Control by the International Joint Commission (IJC)

Secretary's Award -- 1975

Silver-Knight of Management Award (National Management Association) -- 1975

Designated Certified Manager (C.M.) Institute of Certified Professional Managers -- 1977

TOLL INCREASES

Senator ANDREWS. Thank you very much.

During July 1981 it was announced that there would be no increases in Seaway tolls in 1981. Toll increases are, however, scheduled for 1982 and 1983. Are these toll increases across the board or by commodity?

Mr. OBERLIN. They are by commodity and they differ between the Welland Canal and the Montreal-Lake Ontario section. When I say "by commodity," there is a limited number of commodities. For example, bulk commodities will go from 68 cents in the Montreal-Lake Ontario section or 99 cents overall, to $1.16 overall, whereas grain will go from 41 cents in the Montreal-Lake Ontario section or a total of 72 cents in the overall section to 83 cents overall.

So, there are basically five commodity types, there is bulk cargo, container cargo, government-aid cargos, grain cargos and general cargo; other than that, the charges are on the vessel.

SEAWAY COMPETITION

Senator ANDREWS. How does the toll increase place you in a competitive relation to railroads or barge traffic on the Mississippi?

Mr. OBERLIN. Well, obviously any toll increase, any increase which increases the transportation cost, makes us less competitive with competing transportation modes. We are faced with the dichotomy of having to raise tolls to meet the statutory requirements placed upon the Corporation and doing it in a minimal manner so that we do not divert major cargoes.

Obviously, if there were user charges on the river, for example, it would change the competetitive balance between the Seaway and the river. Our best estimates—and we have done a number of very complete sensitivity analyses—are that the diversions would not amount to more than about 2 to 3 percent.

I was going to say 2 to 5 percent.

Senator ANDREWS. A minimal effect on the traffic on the water.

Mr. OBERLIN. Well, the problem with averages, Mr. Chairman, is that, you know, it is like having something that is zero and something that is 100 degrees Fahrenheit and the average temperature is 50. The problem with that is that it affects some areas differently than other areas. All we can do is look at the overall total.

Our attempt has been, by isolating grain as a separate commodity, to keep that at as reasonable a level as possible because we recognize that is one of our major commodities and it is very important particularly to the upper Midwest.

SEAWAY DEBT

Senator ANDREWS. What actions are you taking to insure that the Seaway remains competitive in future years?

Mr. OBERLIN. We are taking a look at possible options for financing our needs. We expect to have a study completed by the end of the year. We are up against a problem. The only option available to us, really, is to recharacterize the debt in some way. There are a number of different approaches to that.

Senator ANDREWS. I know that. As I understand it, a Senate bill has been introduced that proposes to extend the debt repayment period from 50 to 80 years. Do you have a position on this bill?

Mr. OBERLIN. No, sir. The administration has not taken a position on this. There are a number of different pieces of legislation, both in the Senate and the House.

The legislative options are to extend the payback by 30 years, which would give you a straight-line payback. The other one, and another piece of legislation—which is I believe in the House—is to convert the debt to equity.

This is what the Canadians did, they converted the debt to equity. They said, "since the government owns the facility, it in fact is the stockholder," and it converted the debt to equity. They pay back a return on investment or, as you would have it, dividends as determined by the Minister of Transport, whose counterpart here would be the Secretary of Transportation. There is a third piece of U.S. legislation which eliminates the debt altogether. These are the major legislative options.

The administrative options are rather limited. We can either raise tolls and if we have to go in 1986 to the $9.5 million payment, that would mean another increase of about 75 percent in tolls which would really be counterproductive.

We could adminstratively reschedule it as we have done in the past for the short term. But the problem with that option is that you just put the balloon farther downstream a little bit and it gets bigger. It just exacerbates the problem, it does not solve it.

Or, third, there is always the option of defaulting on our debt, but we certainly do not want to do that. So, those are the main options we have administratively.

Senator ANDREWS. If you delay the balloon payments until 1986 you just have to find some way to take care of it then.

Mr. OBERLIN. Yes, sir.

SEASON EXTENSION

Senator ANDREWS. Last year you indicated you wanted to study the environmental impacts of operating on a year-round basis but were blocked from doing this by the State of New York and some environmental groups.

Are you currently pursuing any efforts in this area?

Mr. OBERLIN. No, sir, we are not. We have a fund limitation, that is, we just simply do not have the money to undertake a major environmental study. The Corps Report on Season Extension is in the Secretary of the Army's office now, and I understand it may be sent to Congress shortly.

But as far as our activities, there is still opposition by the State of New York, although we have been trying to change that. Perhaps with Governor Carey not running we might have a change of attitude on the part of New York.

ICEBREAKER REQUIREMENTS

Senator ANDREWS. It would seem to me that an extended season on the Seaway would result in additional icebreaking requirements on the Great Lakes.

Have you done any checking with the Coast Guard or with private industry as to what the impact of these additional requirements would be?

Mr. OBERLIN. Well, actually that is part of the cost-benefit analysis of the corps' report and obviously it would take additional icebreaking capacity, and the design of merchant ships may have to be altered somewhat.

We have been in touch and are working with the industry. But from the standpoint of the Seaway Corporation itself, we have been working closely with the Saint Lawrence Seaway Authority of Canada. They recently installed an ice boom in the lower Saint Lawrence, near the power dam at Hydro Quebec, and we are evaluating that with them.

So, we are, as a Seaway corporation, operating on the incremental extension even though we cannot go for the big pack which is 10 months out of the year.

Senator ANDREWS. Do you think the Coast Guard has that type of capability right now?

Mr. OBERLIN. That depends on the extent of the length of the season. It is my opinion that the Coast Guard, if we went into an extended season, would need additional capacity of some type.

SAULT SAINT MARIE LOCKS

Senator ANDREWS. There have been some discussions concerning possible transfer of the Soo Locks at Sault Saint Marie from the Corps of Engineers to the Seaway Corporation. What is the nature and current status of those discussions?

Mr. OBERLIN. Well, I have not had any discussions with the corps in regard to this.

Senator ANDREWS. You mean the committee is getting rumors that are not operational?

Mr. OBERLIN. There have been some discussions about the advisability, but that has been an internal analysis. To my knowledge no one at the Seaway Corporation has discussed the matter with the corps.

Senator ANDREWS. Would it be desirable for the Corporation to take over control at Soo Locks? Are you hampered by the corps' handling of that operation?

Mr. OBERLIN. I certainly would not characterize the handling by the corps as that. I think they do an excellent job of running the Soo.

I think that behind this concept is the fact that when you negotiate with Canada, Canada has the Welland Canal in the package and we have only the two locks on the Saint Lawrence. I do not think the issue is necessarily whether it is run by the corps or the Seaway Corporation. The issue is whether that should be part of the overall package that we go forward with on user charges.

CONTAINER SHIPS

Senator ANDREWS. The Seaway is too small to handle container ships; is that correct?

Mr. OBERLIN. The large container ships cannot use the Seaway, that is right.

Senator ANDREWS. Will the size limitation of the Seaway eventually make it unable to compete with these new shipping modes?

Mr. OBERLIN. If you are speaking of container ships, I would say, yes, sir. Now, may I add that there are a number of possibilities and a number of ideas about feeder lines which would pick up containers in the Lakes and carry them to the mouth of the river where they would be transshipped.

This same technique is being used for coal this year where they pick up coal in self-unloaders at the Lakes, take it to the mouth of the Saint Lawrence and transfer it to huge bulkers. And grain, as you know, is also handled on a transshipment basis as well as there being direct shipments.

Senator ANDREWS. That is why I would think that container ships would be a possibility. They are designed to allow fast loading and unloading, and certainly two lake-type vessels could go down to the mouth, transfer the containers to oceangoing vessels and have some efficiency of scale.

That is why I am amazed that you said it will not work.

Mr. OBERLIN. I thought your question was with a larger ship, could the large ships get in; and the answer is no.

Senator ANDREWS. No, my question was, Is the Seaway too small to handle container shipping? As you know, there are a dozen different ways of handling something.

Mr. OBERLIN. Right.

Senator ANDREWS. We handle a shipment of grain by driving it to our local elevator in a truck and putting it into a bigger boxcar. It is a rather efficient way of moving it, since it is the only way.

Mr. OBERLIN. We have been working and have worked with several different firms, trying to encourage them to provide a feeder service. Recently one of the Chicago firms, Seaway Lines, which is a new endeavor, applied for a subsidy. I do not think they got the subsidy. But their concept was to carry containers on the deck of a bulk laker, a specially constructed deck where you would put grain in the hold and put the containers on the deck and the containers would be transferred.

Senator ANDREWS. It would be a more cost-effective way to do it than trying to double the size of the lock.

Mr. OBERLIN. Yes, sir. At least for the short term, absolutely.

Senator ANDREWS. Not just for the short term but also down the road. Are you doing studies in this area?

Mr. OBERLIN. We are doing studies on the movement of containers.

Senator ANDREWS. I am talking about looking ahead 20 years. Should we be looking toward doubling the size of the locks, or should we be looking toward developing the type of lake ships that can handle these containers which can be transloaded? Which is the more effective?

I suppose you do not know for sure right now, but you are doing studies in that direction.

Mr. OBERLIN. Yes. One of the studies is being done right now. The corps has a twinning of the lock study which is developing costs of the potential larger locks. With that, we would be able to conduct analyses to see which is the most cost effective. That is due within the next 6 months.

SEAWAY BUILDING FIRE

Senator ANDREWS. Is the fire damage repaired at your headquarters?

Mr. OBERLIN. Not yet, it is 85 percent complete. We should be back in the building within another 60 days. This is the administration building in Massena that was fire damaged.

Senator ANDREWS. You indicated last year that you anticipated a 9-month building program, that the building would reopen in May and the reconstruction cost would total about $3 million.

What kind of a financing did you arrange to pay for the building?

Mr. OBERLIN. We borrowed money and issued revenue bonds from our reserves. We have been shepherding our revenues, we had $6 million in borrowing authority which we shepherded all these years for emergencies. We issued revenue bonds to borrow the money for that.

Senator ANDREWS. The old building was not insured. I take it the new one will be?

Mr. OBERLIN. Yes, sir.

Senator ANDREWS. That is progress. [Laughter.]

SUBMITTED QUESTIONS

Thank you very much, we appreciate your coming. I have some questions that will be submitted to you for the record. Some of my colleagues on the committee had conflicts and were not able to be here, however they have some questions they would like to have answered for the record.

Mr. OBERLIN. Thank you very much, Mr. Chairman.

[A brief recess was taken.]

[The following questions were not asked at the hearing but were submitted for response for the record:]

Questions Submitted by Senator Andrews

TRANSFER OF THE SOO LOCKS

Senator Andrews: Has the condition of the Soo Locks been assessed? If so, what is the nature and extent of the maintenance which will be required to keep these locks in working order?

Response: The Seaway Corporation has made no assessment of the condition of the Soo Locks which are maintained by the U.S. Corps of Engineers. The Soo contains parallel lock facilities and necessary maintenance can be undertaken during the navigation season when conditions are much more favorable and the work is less expensive.

TOLL INCREASES

Senator Andrews: Please detail for the record the percent increase in cost per ton at each lock for 1982 and 1983.

Response: On the Montreal-Lake Ontario section only, cargo tolls will be increased 16 percent in 1982 and 8 percent in 1983. Additionally the charge per gross registered ton for each vessel will increase by 1/2¢ each year or about 7 percent. This, coupled with the lockage charges to be reestablished at the all Canadian Welland Canal will raise Seaway tolls an average of 18 percent in 1982 and 10 percent in 1983 for a complete transit.

EXTENSION OF NAVIGATION SEASON

Senator Andrews: Your current navigation season runs approximately 9 months, although you have indicated that you would like to extend the season to about 10 1/2 months. To work toward this extension, your budget this year contains $600,000 for various analyses and projects related to that program. Please explain these various projects, how they will result in an extension of the season, and what their current status is.

Response: This program comprises work under four categories, however, the $600,000 will permit only minimal work in any of these categories.

Additional St. Lawrence River ice control structures are needed in the International Rapids Section of the River to stabilize the ice cover in the presence of navigation. The work programmed involves the continuation of the collection of data on hydraulic and ice conditions for use in later model and design work. Initiation of the model/design work has been delayed due to lack of funds.

Improvements in ice control at the locks will reduce lockage delays due to the present necessity for separate ice lockages and delays for lock wall scraping. The reduction in lockage delays translates directly into increased system capacity during the critical closing and opening periods. A flushing port system has been installed and is currently operational at Eisenhower to service the bubbler flushers at the gates and the upstream air curtain. Similar systems will be designed for and installed at Snell Lock.

The Precise All-Weather Navigation System Studies are being pursued jointly with the St. Lawrence Seaway Authority of Canada and the U.S. and Canadian Coast Guards. Successful implementation of such a system will result in an approximately 3-fold increase in system capacity during the closing and opening periods when we are now constrained to daylight-only navigation, and is a prerequisite to any significant extension of the season. We are currently in the process of refining our definition of system requirements and surveying available electronic positioning systems. About one third of the river has been electronically surveyed, and in-house validations and evaluations of the U.S. Coast Guard LORAN-C based PILOT and PLAD systems will be conducted this season.

Additional Lock studies will comprise liaison with an in-house follow-up to ongoing efforts by the Army Corps of Engineers and the Canadian Seaway Authority, which are looking at the feasibility of providing additional locks at the Welland Canal and on the St. Lawrence to address system capacity constraints which are expected within the next decade. Locks equal to or larger than the Poe Lock at the Soo are under study. The Corps Stage 2 study is due to be completed within a month, at which time a decision will be made as to whether to proceed with the Stage 3 effort. With our Canadian counterpart we have just completed a joint Commodity Flow Forecast, which will serve as the basis for defining the needs for further improvements.

Senator Andrews: Currently, the Seaway Corporation does a considerable amount of its maintenance during the winter. If the season were to be significantly extended, how would this impact on maintenance schedules and capabilities?

Response: We would have to compress our schedules and would probably go to a three shift enlarged maintenance force with a few additional temporary employees. We believe we are capable of handling it.

MAINTENANCE STUDY

Senator Andrews: During the summer of 1981, an engineering consultant completed a study of your maintenance program. Please highlight the recommendations of this study and how your current maintenance program conforms or departs from these recommendations.

Response: The Corporation's engineering consultant, Harza Engineering Company of Chicago, Illinois, essentially recommended that the current maintenance program of annual winter repair activities be continued and that additional empirical testing be accomplished to determine the actual operating conditions of the lock structure and machinery. The consultant concurred in the covering and heating of Eisenhower Lock on an annual basis to protect the concrete. They also agreed that the Corporation's method of annual concrete repairs is appropriate since the rate of deterioration of the concrete is not increasing. Our maintenance programs are generally following the recommendations made by the consultant, within the limits of available funding. For example, the subsurface soils investigation of the backfill around the lock structures was accomplished last year and the instrumentation and recording of miter gate and monolith stresses are being accomplished this winter. Both of these projects are specific recommendations of the consultant.

MAINTENANCE OF THE EISENHOWER LOCK

Senator Andrews: Maintenance of the Eisenhower Lock has been a serious problem for the Seaway Corporation for some time. Last year you estimated that it would take about $12 to $15 million over the next 10-12 years to keep the lock in structurally sound condition and you anticipated spending about $1.5 million in 1980 dollars, each year over the next five years to continue repairs and maintenance. How much money have you spent up until now on fixing the structural deficiencies of this lock? Are the repair estimates for the next 10 years still in the $12 million range?

Response: Since 1959 the Corporation has spent $10.5 million correcting structural deficiencies in Eisenhower Lock. While total winter maintenance and repair estimates for the next 10 years remain in the $12 to $15 million range, about $4 million of this amount will be spent correcting structural deficiencies at Eisenhower Lock. The remaining funds will be used for maintenance and repair of machinery and structures common in a massive hydraulic structure over a quarter century old. The annual program of repairing structural deficiencies at Eisenhower Lock is expected to continue for at least 20 years.

Senator Andrews: Have you considered using your borrowing authority to speed up some of the needed maintenance work instead of spreading it out over a 10-year period in order to reduce inflationary effects on costs in later years?

Response: Yes. We may find it necessary to take advantage of our very limited remaining borrowing authority for that purpose.

Senator Andrews: What is the current condition of the lock and how much work did you accomplish on it over the last winter?

Response: The current condition of Eisenhower Lock is excellent for large hydraulic structure of its age except for the abnormal concrete deterioration. During the past winter we were able to remove deteriorated concrete and install new reinforced concrete on four chamber wall monoliths. We continued our mechanical maintenance activities by replacing deteriorated fender boom cables and accomplishing unscheduled repairs to all miter gates both at Snell and Eisenhower Lock. The replacement of timber fenders on the lock walls adjoining the intermediate pool was deferred because of the contractor's inability to deliver the specified timbers. Fiscal constraints dictated that funding for last winter's program be reduced to a level of approximately $900.0 thousand.

MAINTENANCE OF CAPITAL PLANT

Senator Andrews: The Seaway Corporation was established in 1954. Much of its capital plant must be nearing the end of its useful service life. Please detail for the record the capital assets of the Corporation, their approximate age and service life, when the Corporation expects to be replacing these assets, and the estimated replacement costs.

Response:

Capital Asset	Estimated Service Life	Approximate Age	Replacement
Land, rights and relocations	95	23	N/A
Locks and guide walls	100	23	End of service life unless locks are replaced with larger capacity.
Lock machinery and equipment	50	1 to 23	End of service life
Roads and bridges	50	2 to 23	End of service life
Channels and canals	95	23	N/A
Public use facilities	50	23	End of service life
Navigation aids			
Fixed	40	2 to 23	End of service life
Lighted	33	23	End of service life
Unlighted	10	1 - 10	Replace some each year and/or convert to fixed aids
Buildings, Grounds and Utilities	50	1 to 23	End of service life
Permanent Operating Equipment	7 to 40 years	1 to 23	Replace some each year as the need arises

Senator Andrews: Please provide a brief description and cost estimate of each of the items mentioned under system improvements, modifications, and equipment in the replacements and improvements program.

Response:

Lock gate assembly area construction will facilitate rapid replacement of our lock miter gates during emergencies.	$300,000
Lock flushing ports consists of chamber work, removal of concrete in the piers of the sill bumper, installation of manifold and flushing ports at Snell Lock.	500,000

Navigation systems - purchase of additional visibility measuring equipment, and buoy positioning equipment.	200,000
Lock machinery control improvements - new control desks for operational control of lock equipment .	150,000
Equipment, machinery and tools.	150,000
	$1,300,000

TRAFFIC

Senator Andrews: Last year you estimated that coal traffic would increase through the Seaway. Has this occurred? What has been the impact on total tonnage and revenues? Do you expect this trend to continue?

Response: Yes. Coal traffic increased dramatically and reached 1.7 million tons in total during the 1981 season, up from about 120,000 tons in 1980. Toll revenue was up slightly but not appreciably as declines in other cargoes offset any major gains in coal traffic. We do expect coal tonnage to improve again in 1982; about 2.5 million is forecasted. The year 1983 and beyond is the questionable period as planned capacity improvements are implemented at competing coastal ports. The surge of Seaway traffic may continue, decline or moderate depending on the changing competitive situation.

Senator Andrews: Please detail for the record how much and what types of tonnage went through the Seaway during 1981, and what the tolls were.

1981 SEAWAY SYSTEM TRAFFIC AND TOLLS

		Tolls in $ per metric grt. ton		
Major Commodity Groups	Million Metric Tons	Montreal Lake Ontario	Welland Canal	Total Both Sections
Iron Ore	12.9	$0.68	$0.31	$0.99
Grain	24.5	0.41	0.31	0.72
Coal	1.7	0.68	0.31	0.99
Other Bulk	8.0	0.68	0.31	0.72
General Cargo	3.5	1.65	0.50	2.15
Cargo Total	50.6			
Gross Registered Vessel Tonnage	52.9	0.07	0.07	0.14

ADDITIONAL CAPACITY

Senator Andrews: The Seaway entities were conducting a joint commodity flow forecast study to assess traffic levels and vessel sizes anticipated over the next twenty years. What is the status of this study? Have any preliminary conclusions been reached?

Response: The study has just recently been completed and will be part of continuing evaluation by both Seaway entities to determine constraints on traffic in the future and improvements needed to address capacity problems. The preliminary data appears to delay capacity problems at the Welland Canal, which is the most critical capacity point, to the 1990's.

Senator Andrews: What is the status of the Corps of Engineers Seaway additional locks study, due for completion in 1983?

Response: The Corps of Engineers' Great Lakes/St. Lawrence Seaway Navigation Season Extension Feasibility Report has undergone its 90-day review, and it is our understanding that it has been transmitted to the Secretary of the Army for information, rather than for action. The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada remain committed to incremental extensions of the navigation season as traffic demands and subject to the constraints of availability of funds. This past year the Seaway Authority installed a new ice boom with permanent navigation gap at the entrance to the Beauharnois Canal, above Montreal. That boom, which will be maintained by Quebec Hydro, will improve ice comditions on the canal by providing better ice control during the critical ice formation process, and should minimize problems to both navigation and power in the event of an unusually early freezeup such as occurred in 1976. Our own efforts to provide for better ice control in the International Rapids Section of the River have been severely constrained by lack of funds.

PROJECTIONS

Senator Andrews: Provide for the record projections of your revenue and expenses (including toll increases) through 1987. Explain how you plan to meet any expected deficits.

Response: At the present time we project that our expenses, exclusive of debt service requirements, for the years 1983-1987 to be as follows: 1983-$12.3 million; 1984-$12.9 million; 1985-$13.5 million; 1986-$14.5 million; and 1987-$15.3 million.

Revenues will, of course, depend upon traffic volumes. If cargo tonnages recover and coal establishes itself the way its enthusiastic proponents assert it will, we should be able to cover the projected expenses with revenues.

If traffic is slow to recover or if coal doesn't develop to the most optimistic levels, we will suffer a revenue shortfall. This will require either a toll increase or continued deferment of necessary replacements and improvements, or both.

Because of the international considerations involved in establishing toll levels, it is virtually impossible to identify the increase which might be necessary. The Canadian Seaway Authority relies on the same traffic for its revenues, so its shortfalls would parallel ours.

The situation is complicated by our bond repayment schedule which must be resolved before we again undertake toll discussions.

PUBLICATIONS

Senator Andrews: During 1981 you printed several publications to promote Seaway commerce and provide trade data. Provide a list of cost and number of these publications printed for the record.

Response: The list of publications follows:

"The St. Lawrence Seaway," a user-funded brochure designed to last several years and aimed primarily at Seaway users and potential customers. Replaced two previous Seaway Corporation pamphlets published in the early 1970s. Cost: $40,000 for printing 100,000 copies.

"1979 St. Lawrence Seaway Traffic Report," a user-funded report produced for users which contains summaries of vessel and cargo statistics for the Montreal-Lake Ontario and Welland Canal sections of the Seaway. Cost: $4,000 for printing 2000 copies.

"1980 U.S. Great Lakes Ports Statistics for Overseas and Canadian Waterborne Commerce." Printed and reproduced for users through the National Technical Information Service (NTIS) at no cost to the Seaway Corporation.

"1980 Saint Lawrence Seaway Development Corporation Annual Report," a Congressionally-mandated report paid for through user charges. The report not only summarizes the agency's financial condition and activities for the calendar year, but at the same time is also used as a development tool. Provided to users, government agencies and the Congress. Cost: $11,000 for 18,000 copies.

Senator Andrews: In your 1983 budget you have raised your estimated fiscal year 1982 revenues by $800,000 to $12.4 million. Based on your expectations that revenues will be decreased during Fiscal Year 1983, is $12.4 million still an accurate revenue projection for FY 1982?

Response: No, the current estimate for FY 1982 has also been reduced to about $11.1 million due to prevailing economic conditions.

QUESTIONS SUBMITTED BY SENATOR CHILES

TOLLS

Senator Chiles: Last year you told us of your intention to discuss new toll levels with the Canadians and that you anticipated toll increases in 12 to 15% range.

I noticed that revenue from shipping tolls is projected to increase by 23% in 1983 or by $2,700,000 over 1982 revenues.

What is your new toll schedule by major commodity group? What is your percentage increase in tolls? What impact if any will these toll increases have on cargo diversion?

In view of these toll increases, how competitive are shipping costs through the Seaway with other transportation modes?

Response: The new toll schedules for 1982 and 1983 and the 1981 comparable tolls are shown on the following schedule.

On the Montreal Lake Ontario section cargo tolls are increased 16% in 1982 and 8% in 1983 plus 1/2¢ in each year on vessel gross registered tonnage. On the Welland Canal (Canadian) lockage charges on the vessel will be imposed. The resulting increases per average cargo ton using both sections of the system is about 18% for 1982 and 10% for 1983.

Our best estimate is that cargo growth over the next several years could be restrained by about 2% to 3%, compared with growth without toll increases.

Seaway shipping costs vary considerably by commodity, origin and availability of competing routes. The comparable costs via the Seaway or other routes undergo constant change.

TONNAGE PROJECTIONS

Senator Chiles: Please provide historical data on tonnage shipped through the Seaway by major commodity groups. What are your projections for 1983?

What impact is the economic downturn having on traffic levels through the Seaway?

Due to the extended nature of the current recession, do you feel that your revenue from shipping tolls may be too high?

If yes, is that the purpose for maintaining an unobligated reserve of $800,000 in FY 1983?

Response: Following is a table from our 1980 traffic report which contains historical cargo summary data from 1959 thru 1980. The 1983 cargo projection is currently at about 55 million tons.

Due to the economic recession in the U.S. and abroad, international shipping is severely depressed for all commodity movements. Therefore, our revenue and tonnage forecasts have been revised downward.

Revenue forecasts have been reduced from $15.1 million to $12.9 million for 1983.

We hope to fund an unobligated reserve with $800,000 in FY 83. If revenues fall short of hoped for levels, we will find it necessary to forego this contingency this year.

SAINT LAWRENCE SEAWAY JOINT TARIFF OF TOLLS
Comparison of Present Tolls with those to be assessed for 1982 and 1983

	Cargo Tolls per Metric Ton		
	Existing	1982	1983
Montreal-Lake Ontario Section (full transit)			
Bulk	$0.68	$0.79	$0.85
Containers	0.68	0.79	0.85
Government Aid Cargoes	0.41	0.48	0.52
Grain	0.41	0.48	0.52
General	1.65	1.91	2.06
Vessel charge, per gross registered ton	0.07	0.075	0.08
Welland Canal Section (full transit)			
Bulk	0.31	no change	no change
Containers	0.31	"	"
Government Aid Cargoes	0.31	"	"
Grain	0.31	"	"
General	0.50	"	"
Vessel charge, per gross registered ton	0.07	"	"
Lockage charge, per lock:*			
loaded vessels	none	150.00	250.00
ballast vessels	none	75.00	187.50
Combined Sections (full transit)			
Bulk	0.99	1.10	1.16
Containers	0.99	1.10	1.16
Government Aid Cargoes	0.72	0.79	0.83
Grain	0.72	0.79	0.83
General	2.15	2.41	2.56
Vessel charge per gross registered ton	0.14	0.145	0.15
Lockage charge, per lock:*			
loaded vessels	none	150.00	250.00
ballast vessels	none	75.00	187.50

*Note: New lockage charge for each of the eight Welland Canal locks is in addition to cargo and vessel GRT tolls.

ST. LAWRENCE SEAWAY COMBINED TRAFFIC
SELECTED COMMODITIES
(Cargo Tons)

Table 5

Year	Selected Agricultural Commodities				
	Wheat	Barley	Corn	Soybeans	Rye, Oats & Flaxseed
1959	—	—	—	—	—
1960	4,704,591	1,320,581	1,234,594	910,589	929,251
1961	7,590,966	842,940	1,679,987	781,165	758,148
1962	5,536,246	1,179,660	2,284,184	1,040,839	1,347,541
1963	7,620,731	1,233,463	2,644,854	962,591	1,108,677
1964	9,303,181	1,333,410	3,119,840	1,317,278	959,144
1965	8,583,646	1,404,784	3,533,514	1,613,577	1,283,346
1966	11,042,409	1,344,952	3,328,717	1,511,904	1,456,818
1967	6,870,576	1,467,662	2,081,240	1,259,565	1,003,646
1968	6,483,645	645,857	3,097,431	1,557,984	686,965
1969	5,051,761	874,901	3,273,574	1,932,051	705,085
1970	8,130,265	3,854,444	2,769,210	2,708,222	947,067
1971	9,241,305	3,860,077	3,202,042	3,003,741	1,061,359
1972	10,333,196	4,352,427	3,472,814	1,780,270	1,111,774
1973	10,891,766	3,467,566	3,791,846	1,784,868	1,802,801
1974	8,625,852	1,741,440	2,804,734	1,291,580	979,380
1975	12,320,246	2,459,787	3,124,811	1,558,800	837,935
1976	9,206,342	3,130,714	4,285,199	1,488,008	930,827
1977	12,176,043	3,048,569	4,088,060	1,731,651	897,514
1978	14,523,663	2,732,361	6,723,018	2,575,461	668,983
1979	10,683,387	3,408,854	7,533,699	1,714,203	692,875
1980	14,399,105	2,331,369	7,000,330	1,675,959	1,070,268

ST. LAWRENCE SEAWAY COMBINED TRAFFIC
SELECTED COMMODITIES
(Cargo Tons)

Table 5 (con't)

Selected Mine and Manufactured Commodities						Percent of Total
Coal & Coke	Iron Ore	Stone, Sand & Gravel	Salt	Fuel Oil	Manufactured Iron & Steel	
						%
–	–	–	–	–	–	–
4,510,452	7,371,822	916,987	144,456	1,598,029	760,574	57.9
4,668,168	6,346,187	695,372	191,100	1,538,234	542,734	54.9
5,114,738	9,288,431	1,053,987	247,545	1,661,141	759,481	43.4
5,259,571	11,596,566	1,004,482	307,591	1,631,917	874,219	63.0
6,271,999	15,298,102	1,032,395	324,345	1,980,856	1,235,078	69.4
7,244,650	15,588,605	941,871	566,008	2,373,412	3,001,430	70.8
7,951,476	17,802,794	1,432,757	699,539	2,553,100	2,792,196	72.5
8,839,020	17,543,344	1,066,312	794,122	2,532,809	3,179,539	71.7
9,919,135	19,336,992	1,419,321	942,526	2,636,220	4,977,778	76.8
10,374,668	13,880,165	1,297,916	745,123	3,045,802	4,066,891	68.6
10,204,687	17,120,802	1,008,288	983,056	3,457,396	4,030,752	79.3
8,841,118	15,108,975	1,093,482	1,077,605	2,776,075	5,721,256	77.5
9,587,300	14,572,992	1,113,023	1,515,191	3,367,722	5,260,412	77.4
8,150,586	18,140,629	1,288,509	1,395,294	3,847,655	3,958,329	80.3
7,108,326	16,183,473	1,429,633	1,405,854	2,409,840	3,272,018	82.6
8,763,004	17,238,382	1,408,519	1,356,108	2,331,818	2,252,074	77.2
8,739,418	22,334,519	1,291,595	1,514,740	1,860,776	3,041,172	84.8
8,993,274	23,625,226	1,323,191	1,489,912	2,730,415	4,985,465	88.0
8,947,636	18,124,579	1,407,554	1,386,969	2,495,423	3,589,810	79.0
10,848,052	18,927,435	1,887,284	1,492,636	3,163,041	3,132,411	79.1
8,910,257	15,103,969	1,468,392	1,417,627	2,411,026	2,084,713	86.4

SEASON EXTENSION

Senator Chiles: Last year we were told that the Corporation has an 8 1/2 month operating season with hopes of extending the season to 10 months.

What progress has been made and is projected in 1983 in this regard?

Response: Funding and resource constraints have not permitted any significant progress with respect to extension of the navigation season.

To the extent possible we are directing our efforts toward enhancement of the current season, through all-weather navigation, in cooperation with the Canadian Seaway Authority and the U.S.-Canadian Coast Guards.

If revenues are available for such efforts, we plan to use between $300,000 to $600,000 dollars toward this program in FY 82/83.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

STATEMENTS OF:

WILLIAM BRADFORD REYNOLDS, ACTING CHAIRPERSON AND ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS, DEPARTMENT OF JUSTICE

CAROL GRANT, BOARD MEMBER, ACTING CHAIRPERSON, EXECUTIVE COMMITTEE, COCHAIR, PLANNING AND BUDGET COMMITTEE

DAVID MYERS, BOARD MEMBER, COCHAIR, COMMUNICATIONS COMMITTEE, MEMBER, COMPLIANCE AND ENFORCEMENT COMMITTEE

HALE ZUKAS, BOARD MEMBER, COCHAIR, TRANSPORTATION COMMITTEE, MEMBER, STANDARDS COMMITTEE

WILLIAM PASSMORE, BOARD MEMBER, MEMBER ENFORCEMENT COMMITTEE, MEMBER, STANDARDS COMMITTEE

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

This is a rather unique hearing this morning because the Architectural and Transportation Barriers Compliance Board has been zero budgeted. We have a witness from the administration who is from the Department of Justice. We then have a number of witnesses from the public sector and several from the old Compliance Board. I think we will have several different viewpoints here.

If you can, I want to ask each of you to summarize your original statements. They will appear in the record in total.

As I ask a question of any individual, if one of you has an opposing view please speak up. This give-and-take in the oral questioning really makes the hearing a viable one to establish a thorough record.

Mr. Reynolds, if you would introduce the witnesses and then proceed with your statement we will proceed with the hearing.

INTRODUCTION OF WITNESSES

Mr. REYNOLDS. Thank you, Mr. Chairman.

I would like to point out that the other witnesses who are at the table with me are all current Board members, except for Mr. Johnson who is the Executive Director of the Architectural and Transportation Barriers Compliance Board.

Ms. Carol Grant, who is to my left, is a Board member; Mr. William Passmore, who is directly to my right is a Board member, as is Mr. David Myers and Mr. Hale Zukas.

I will summarize my statement, Mr. Chairman, and then introduce each of the other Board members who feel they would like to make a brief statement as well.

I want to thank the chairman and the subcommittee for having us here today to discuss matters of direct interest to all of us, concerning the question of funding of the Architectural and Transportation Barriers Compliance Board for fiscal year 1983.

As you already know, it is the recommendation of the administration that the Board not be funded for fiscal year 1983.

The administration does feel that the Board has served a very useful purpose in focusing attention on the need for accessibility in Federal and federally assisted structures. It has provided an impetus—and a very valuable impetus—for the development of accessibility standards by different Government agencies, and those standard-setting agencies are now in the final preparatory stages of devising a uniform set of rules and requirements applicable to all Federal and federally funded buildings.

This in itself is no small accomplishment and it marks a fitting end to what has been at times both an embittered and an embattled effort.

With the close of this chapter in the Board's history, the administration's view is that it is now the appropriate time to recommend that there be no further appropriation for the Board for the next fiscal year.

That recommendation is made based on a judgment by the administration that the principal Board activity has now all but concluded and will be concluded by the end of this fiscal year. That the other functions that the Board would be performing overlap in most respects with responsibilities and legislative assignments that Congress has given to others, or that are performed very ably and very well by the private sector.

The feeling is that retaining the Board in being beyond this fiscal year would really be perpetuating its existence in order that it would largely fulfill a duplicative role and that there is reason to believe that that duplicative effort can be adequately performed for the benefit of the handicapped community and the public at large as ably and as well by other organizations.

It is on that basis, consistent with the budget cuts that are being made in a number of areas across the board by the administration, that the determination was made to zero fund the Board for the next fiscal year.

PREPARED STATEMENT

I would ask that my full statement, Mr. Chairman, be submitted for the record instead of reading it now, and with that I will conclude my preliminary remarks and ask that, if it is agreeable with the committee, that Ms. Carol Grant be permitted to make a preliminary statement.

[The statement follows:]

STATEMENT OF WILLIAM BRADFORD REYNOLDS

I am William Bradford Reynolds, Assistant Attorney General for Civil Rights, Department of Justice and acting chairperson of the Architectural and Transportation Barriers Compliance Board. I am pleased to be here today to discuss matters of direct interest to this committee concerning the question of funding for the Architectural and Transportation Barriers Compliance Board for Fiscal Year 1983. As you already know, it is the recommendation of the Administration that the Board not be funded for Fiscal Year 1983.

It is the Administration's view that the Board has served a useful purpose in focusing attention on the need for accessibility in federal and federally assisted structures. It has provided an impetus for the development of accessibility standards by different government agencies (DOD, USPS, GSA, HUD), and those standard-setting agencies are now in the final prepatory stages of devising a uniform set of rules and requirements applicable to all federal and federally-funded buildings. This in itself is no small accomplishment, and it marks a fitting "end" to what has been at times both an embittered and an embattled effort.

With the close of this chapter in the Board's history, the Administration views this as the appropriate time to recommend that there be no further appropriation for the ATBCB in FY 1983. The principal Board activity has now all but concluded. Other functions that could be performed by this unit overlap in most respects with responsibilities and legislative assignments given by Congress to others. To retain the Board "in being" so as to permit it to perform what would largely be a duplicative role serves neither the handicapped community nor the public at large. Thus, consistent with budget cuts being made across the board, the Administration has determined that zero funding in this case is justified.

In light of the zero funding proposal, it might be helpful if I briefly highlight how the Administration envisions that the accessibility program would be handled if the Board no longer operated. Our judgment is that the program would operate well.

The Board's present functions can be grouped into five general categories: (1) enforcement, (2) research and fact-finding, (3) accessibility guidelines development, (4) provision of technical assistance, and (5) providing reports and recommendations.

1. The enforcement function relates essentially to building accessibility standards prescribed pursuant to the Architectural Barriers Act by four other federal agencies. Legally, the standards are also subject to enforcement by each agency supervising the design, construction, or alteration of the building. In addition, courts have jurisdiction to step in if an agency should fail to comply with applicable standards and refuse to rectify an error. Complaints may be filed administratively either with the agency concerned or with the Board.

When complaints are filed with the Board, the Board typically refers them to the agency and then responds on the basis of the concerned agency's reply. The few complaints that are received by the Board and are not settled by this process are subject to referral by the Board's staff to an Administrative Law Judge or a court for further review. Without the Board, each standard-setting agency would directly process all complaints concerning buildings under its jurisdiction. Recourse to the courts would exist, as it does elsewhere, as a means of enforcing the legal obligations to provide accessible facilities.

2. The Board has flexible responsibilities in the areas of research and fact-finding concerning the handicapped. These responsibilities can summarily be described as searching out alternate approaches to architectural, transportation,

communication, and attitudinal barriers; and determining what federal, state, and local governments and other public and nonprofit agencies are doing to eliminate such barriers. Additionally, the Board is to determine how and to what extent transportation barriers impede the mobility of handicapped, consider the housing needs of the handicapped, and determine what measures are being taken to eliminate transportation barriers and to make housing accessible and available.

An organization that is currently available to perform these research and research-funding responsibilities is the National Institute of Handicapped Research, established by the 1978 amendments to the Rehabilitation Act of 1973. Additionally, there are a number of educational institutions, research foundations, and nonprofit interest groups that already play a leading role in these areas, without relying extensively on the Board either for funds or for guidance or leadership. Given the exceedingly limited amount of research undertaken by the Board since its inception, it is not anticipated that this area will experience a lack of attention as a result of the Administration's proposal.

3. The Board is charged with developing minimum guidelines and requirements for the accessibility standards promulgated under the Architectural Barriers Act of 1968, as amended. In this regard, the Board has made great strides forward in producing a final set of guidelines considered to be usable in setting agency accessibility standards. Those guidelines are now close to complete. They represent an effort to bring together in one place a uniform set of guidelines that comport, to the extent practical, with similar (but not identical) guidelines in the private sector, most notably the American National Standards Institute (ANSI). Further activity in this area is neither contemplated nor necessary for FY 83 or thereafter.

4. The Board is authorized in cooperation with other federal agencies to provide certain forms of technical assistance to public or private activities, persons, or entities affected by regulations issued under Title V of the Rehabilitation Act of 1973. As with other Board functions previously discussed, this activity essentially duplicates or supplements those of the other agencies, state agencies, and private nonprofit organizations. The Administration believes that these governmental and private organizations, because of their experience, the credentials of their staff, and their enforcement and compliance responsibilities may be as well or even better suited to provide such technical assistance and guidance in the future.

5. The last group of functions assigned to the Board is to issue various reports and make recommendations to the President, Congress, and certain Congressional committees. In this regard, the Board is to report annually to the Congress on its activities during the preceding fiscal year, and it may make recommendations to the President and Congress for such legislation and administration as it deems necessary or desirable to eliminate barriers. Such Board reports are, for the most part, not substantive areas of activity that have independent significance by themselves. There are, moreover, existing government and private agencies and private-sector interest groups ready and able to provide recommendations and reports to Congress on accessibility legislation, administration, and other matters of interest in this area.

In summary, should the Board's activities not be funded, there would in the opinion of the Administration be little negative impact on the continuing efforts by other federal and nonfederal agencies and organizations to meet the statutory goals and policies under the Architectural Barriers Act, the Rehabilitation Act, and other federal legislation aimed at approaching to the fullest extent practicable a barrier free environment. Research, technical services and enforcement activities would continue to be provided to disabled persons by both the public and private sector in an equally efficient, effective and cooperative manner. It is principally from this vantage point that the Administration recommends zero funding for the ATBCB in FY 83.

This concludes my preliminary remarks. I will be happy to answer any questions you have.

BIOGRAPHICAL SKETCH

William Bradford Reynolds became the Assistant Attorney General in charge of the Civil Rights Division on July 27, 1981, the ninth person to hold the post.

President Reagan nominated Reynolds for the position on June 11, and he was confirmed by the Senate on July 23.

Reynolds was born on June 21, 1942, in Bridgeport, Connecticut. He attended Phillips Academy, Andover, Massachusetts, and received his B.A. degree in 1964 from Yale University, where he was on the Dean's List.

Reynolds graduated second in his class from the Vanderbilt University School of Law in 1967, receiving his J.D. degree. He was editor-in-chief of the Vanderbilt Law Review and was selected for Order of the Coif.

During the summer of 1966, Reynolds worked as an assistant to the United States Attorney in Nashville, Tennessee. Following graduation from law school, he joined the New York City law firm of Sullivan & Cromwell and was involved principally in general commercial litigation matters.

From April, 1970, to June, 1973, Reynolds was an assistant to Solicitor General Erwin N. Griswold, presenting 11 oral arguments before the Supreme Court and writing some 40 Supreme Court briefs. He worked on a number of important civil rights cases.

From 1973 until his appointment as Assistant Attorney General, Reynolds was a litigation partner in Shaw, Pittman, Potts & Trowbridge, a Washington, D.C., law firm. He had responsibility for civil litigation matters, including extensive state and federal court practice and involvement in adversary administrative proceedings before governmental agencies.

He is a member of the District of Columbia Bar, the New York State Bar, the Supreme Court Bar, the American Bar Association, and the District of Columbia Bar Association.

Reynolds is married to the former Lynn Morgan and they have one son and three daughters. The family lives in Potomac, Maryland.

The Civil Rights Division, which Reynolds heads, is the federal government's chief agency for enforcing civil rights laws in the courts. The Division has some 170 attorneys and 243 other employees. Its annual budget is more than $16.8 million.

Created by the Civil Rights Act of 1957, the Division enforces federal laws and presidential executive orders that prohibit discrimination because of race, national origin, religion, sex and age in employment, education, housing, credit, voting, public accommodations and facilities, and federally assisted programs.

The Division also enforces federal criminal laws that prohibit violations of any person's civil rights and acts of interference with the exercise of other federally protected rights.

In 1980, the Division was given the additional responsibility of enforcing a law designed to protect the rights of persons in state and mental and penal institutions to humane living conditions and other constitutional protections.

STATEMENT OF CAROL GRANT

Senator ANDREWS. Go ahead.

Ms. GRANT. Thank you, Mr. Chairman, for this opportunity to speak before you today concerning the Architectural and Transportation Barriers Compliance Board.

I was born with a condition called phocomelia, which is very similar to that of the children who were born as a result of thalidomide. In 1953 we had no thalidomide, and we do not know what caused my birth defects. My parents decided to emphasize the positive and to make my life count for good.

Why is accessibility so vital to disabled people? Architectural barriers prevent active participation in society. How can we work if we cannot get into the building? Taxpayers—not tax users—balance the budget.

Why do we need this Compliance Board? First, to define accessibility. There are many different types of disabilities including wheelchair users, deaf, blind, and short statured. Through the minimum guidelines and requirements for accessible design, the Board addresses the needs of a wide range of disabilities. With the input of 11 public members and 11 Federal members we have a unique agency which bridges the gap between consumer need and the Federal Government.

Has the Board completed its mission? No. We must insure that accessibility standards issued by the four standard-setting agencies are consistent with the minimum guidelines and requirements.

The uniform task force formed by the Office of Management and Budget is about to publish its proposed uniform standards which, in the last draft we saw, depart substantially from the minimum guidelines and requirements. They have ignored the congressional mandate that requires conformity with the guidelines. This effectively negates the consumer and Federal input that went into the development of the guidelines.

If the Board is abolished, who will insure that Federal buildings are accessible? Certainly not the General Services Administration, the Departments of Housing and Urban Development and Defense, and the U.S. Postal Service. It was precisely because these agencies were failing to enforce the Architectural Barriers Act that Congress created them in the first place. Furthermore, the Board has a mandate to provide technical assistance.

Making lives count for good and removing architectural barriers is a tangible part of realizing this goal. Remember—taxpayers, not tax users—balance the budget. Let us continue this process for the benefit of all Americans.

Thank you.

[The statement follows:]

STATEMENT OF CAROL GRANT

Thank you, Mr. Chairman, for this opportunity to speak before you today concerning the Architectural and Transportation Barriers Compliance Board. Removal of architectural barriers is vital to the 35 million disabled people, and to our elderly friends. I was born with a condition called phocomelia—similar to that caused by thalidomide. In 1953 there was no thalidomide, and we don't know what caused my birth defects. My parents decided to emphasize the positive and help my life count for good.

Why is accessibility so vital to disabled people? Architectural barriers prevent active participation in society. How can we work if we can't get into the building? Taxpayers—not tax users—balance the budget. Accessibility knocks down a major barrier to employment and insures opportunity for first-class citizenship.

Why do we need this Compliance Board? First, to define accessibility. What makes a building accessible to disabled persons? There are many different types of disabilities—those in wheelchairs, blind, deaf, short statured. Through the minimum guidelines and requirements for accessible design, the Board addresses the needs of a wide range of disabilities. With the input of 11 public members and 11 Federal members we have a unique agency which bridges the gap between consumer need and the Federal Government. The guidelines help to define accessibility.

Has the Board completed its mission? No. We must insure that accessibility standards issued by the four standard setting agencies are consistent with the minimum guidelines and requirements.

The uniform task force formed by the Office of Management and Budget is about to publish its proposed uniform standards, which in the last draft we saw, depart substantially from the minimum guidelines and requirements. They have weakened requirements for new construction and have not addressed important scoping provisions for additions, alterations to existing buildings, and leases. They have ignored the congressional mandate that requires conformity with the guidelines. This effectively negates the consumer and Federal input that went into the development of the guidelines.

If the Board is abolished, who will insure that Federal buildings are accessible? Certainly not GSA, HUD, Department of Defense and U.S. Postal Service—the agencies which own and operate the vast majority of Federal buildings. It was precisely because these agencies were failing to enforce the Architectural Barriers Act that the Congress created the Board in the first place. Furthermore, the Board has a mandate to provide technical assistance. Tuesday, at the Board meeting, we gave approval to enter a contract with the National Center for a Barrier Free Environment to assist us in carrying out this mandate.

Making lives count for good. Removing architectural barriers is a tangible part of realizing this goal. Remember—taxpayers, not tax users—balance a budget. Let us continue this process for the benefit of all Americans.

BIOGRAPHICAL SKETCH

Carol A. Grant is a doctoral student in rehabilitation at Southern Illinois University at Carbondale. She is a former rehabilitation counselor with the North Carolina Division of Vocational Rehabilitation.

Ms. Grant is serving a 3-year Board term that ends December 4, 1982. She currently chairs the Board's budget and planning committee and is a member of its standards committee.

A member of the National Rehabilitation Association—NRA, Grant served as NRA State treasurer for 2 years in North Carolina. There she was a member of the Governor's committee on architectural barriers which conducted an extensive study on architectural barriers and made recommendations to eliminate them. The report was developed into the handicapped section of the North Carolina Building Code, recognized as one of the most innovative stringent codes in the Nation.

Grant received her B.A. degree from Meredith College in Raleigh, N.C. She recieved her M.S. degree in rehabilitation counsleing from East Carolina University at Greenville, N.C.

Born with abnormally short limbs, Grant uses leg braces and a wheelchair for mobility.

STATEMENT OF DAVID MYERS

Senator ANDREWS. Thank you very much.

Mr. REYNOLDS. Mr. Chairman, Mr. David Myers also would like to make a brief statement.

Senator ANDREWS. Mr. Myers?

Mr. MYERS. Mr. Chairman, I am David Myers, public member and chairman of the Communications Committee of the Architectural and Transportation Barriers Compliance Board, from Baton Rouge, La. I am also coordinator of Vocal Rehabilitation Services for the Deaf and Hearing Impaired, the Louisiana Department of Health and Human Resources.

I was appointed to the Board in January, 1981, which was after the minimum guidelines and requirements for accessible design had been adopted. These guidelines were a remarkable achievement, and one of the best things that ever happened for those of us handicapped Americans, and especially people with mobility impairments.

These minimum guidelines address very well some of the barrier areas specified in the law. However, some areas, especially the communications area affecting those American citizens who are hearing impaired and blind, receive only minimal benefit from those guidelines. Those of us who are deaf have been completely left out.

We are frustrated and upset. Initially, the proposed rules had provisions for telecommunications devices for the deaf and tactile warnings for the blind. But these were removed prior to the final vote on the guidelines because the Board felt that they did not have enough information and that more work and research was needed.

What followed was an utterly ridiculous proposal by a Federal member of the Board to rescind the guidelines. This action commanded the attention of the Board and staff for a 9-month period, while work on communications barriers was left on the shelf.

In September 1981, I proposed a research contract with the National Bureau of Standards that would have provided us with the information that we needed to develop policy in the communications area. But this proposal was strongly opposed by the Federal members of the Board, even though they were the very ones who prior to that told us that we needed more research and information, and the proposal was defeated by a 12 to 10 vote that was common at that time.

One reason given was that it was not proper to fund a project that stretched into the next fiscal year when the future of the Board was uncertain. The other reason given was that the money that would have gone to that research was necessary for some year-end project of the Department of Education. This was a most appalling situation.

So, now the administration has recommended zero funding for the Board, saying that its work has been completed and that the Board is no longer necessary.

Mr. Chairman, we have a mandate from Congress to develop policy for removal of communications barriers and there is no way that we can finish this work by October. I ask that you fund this Board so that we can continue our work to provide adequate accessibility for all Americans and to provide communications access for 14 million deaf and hearing impaired, and 1.3 million blind Americans.

I ask that funds be earmarked for the research that is necessary to complete our work in the communications area. This and much more can be done for a very small sum of money. This small investment in our Board will bring a tremendous return to us handicapped Americans and our country.

Now I would like to submit for the record the mandate from Congress that specifies the language for the communications area.

Senator ANDREWS. It will be made a part of the record.

[The information follows:]

(2) Investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting handicapped individuals, particularly with respect to telecommunication devices, public buildings and monuments, parks and parkland, public transportation—including air, water, and surface transportation whether interstate, foreign, intrastate, or local—and residential and institutional housing;

(3) Determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies, to eliminate the barriers described in clause (2) of this subsection;

PREPARED STATEMENT

Mr. MYERS. I would like to submit the balance of my statement as well.

Senator ANDREWS. It will be made a part of the record.

[The statement follows:]

STATEMENT OF DAVID MYERS

Mr. Chairman, I am David W. Myers, public member and chairman of the Communications Committee, Architectural and Transportation Barriers Compliance Board, from Baton Rouge, La. I am also coordinator of Vocational Rehabilitation Services for the Deaf and Hearing Impaired, Louisiana Department of Health and Human Resources.

I was appointed to the Board in January 1981, which was after the minimum guidelines and requirements for accessible design had been adopted. These guidelines were a remarkable achievement, and one of the best things that ever happened for those of our handicapped American population with mobility impairments. These minimum guidelines address very well some of the barrier areas specified in the law. However, some areas, especially the communications area affecting those American citizens who are hearing impaired and blind, receive only minimal benefit from the guidelines. Those of us who are deaf, like myself, have been completely left out. We are frustrated and upset. Initially, the proposed rules had provisions for telecommunications devices for the deaf and tactile warnings for the blind. But, these were removed prior to the final vote on the guidelines because the Board felt that they did not have enough information and that more work and research was needed. What followed was an utterly ridiculous proposal by a Federal member of the Board to rescind the guidelines. This action commanded the attention of the Board and staff for a 9-month period, while work on communications barriers was left on a shelf. In September 1981, I proposed a research contract with the National Bureau of Standards that would eventually have provided us with the information we needed to develop policy in the communications area. But this proposal was strongly opposed by the Federal members of the Board, even though they were the very ones who earlier told us that we needed more research, more information, and was defeated by a 12 to 10 vote that was common at that time. One reason given was that it was not proper to fund a project that stretched into the next fiscal year when the future of the Board was uncertain. Another reason given was that the money that would have gone to this research was needed for some year-end projects of the Department of Education. This was a most appalling situation.

So now the administration is recommending zero funding for the Board, saying that its work has been completed, and that the Board is no longer needed. Mr. Chairman, we have a mandate from Congress to develop policy for removing communications barriers and there is no way we can finish this work by October 1. I ask that you fund this Board so we can continue our work to provide adequate accessibility for all Americans and to provide communication access for 14 million deaf and hearing imparied and 1.3 million blind Americans. I ask that funds be earmarked for the research that is needed to complete our work in the communications area. This and much more can be done for a very small sum of money—$1.9 million. This small investment in our Board will bring a tremendous return to us handicapped Americans and to our country.

BIOGRAPHICAL SKETCH

David W. Myers of Baton Rouge, La., coordinator of that State's services to deaf and hearing-impaired citizens, is the newest public member of the Board. Myers joins 10 other citizen members on the Board.

Myers, 44, deafened by spinal meningitis at age 8, was appointed by President Carter January 18. One of nine public members who is disabled, Myers' term expires December 3, 1983.

A native of Winston-Salem, N.C., Myers began his career in vocational rehabilitation in Raleigh in 1964, and he has devoted his professional life to rehabilitating deaf and hearing-impaired persons in North Carolina, Indiana, Ohio, and Louisiana. Myers joined Louisiana's rehabilitation services in 1970, starting as a counselor in New Orleans and moving to Baton Rouge in 1974 as a program supervisor.

The new Board member earned a bachelor's degree at Gallaudet College in Washington, D.C., in 1961 and a master's degree at California State University at Northridge in 1969. He has also studied at the University of North Carolina at Chapel Hill and San Francisco State College.

STATEMENT OF HALE ZUKAS

Mr. REYNOLDS. Mr. Chairman, Mr. Hale Zukas, also a member of the Board, has a statement.

Mr. ZUKAS. Later in Mr. Reynolds' statement there are a number of reasons given explaining why the Board is not needed. Rather than reading my prepared statement I would like to read a response to some of the points.

First, the administration's statement would lead you to believe that the Board merely serves as the middleman in referring complaints to the offending agencies and therefore the Board's abolition would actually facilitate the compliance process. To put it succinctly—nonsense.

Agencies cannot be expected to enforce the law against themselves, at least not as vigorously as will an independent agency. Sure, almost all complaints are settled in discussions with the agency involved, but the fact that the Board almost never invokes sanctions does not mean the power to do so is not needed. Quite the contrary.

The very fact that sanctions are available is a powerful inducement to resolve complaints amicably.

In the interest of time, I will have my interpreter read the rest.

It is claimed that there are a number of possible sources of funding for research in the accessibility field. The National Institute of Handicapped Research has had its budget cut by 20 percent in recent years, and it is unlikely to look kindly on taking on new areas of investigations.

I would like to know specifically what educational institutions, research foundations, and nonprofit instructional groups, would fund such research.

The statement that further activity in this area, the minimum guidelines and requirements, is neither contemplated or necessary for fiscal year 1983 or thereafter simply ignores the facts. Among other things, several sections of the minimum guidelines and requirements, including those on tactile warnings, permissible operating forces, and special-use facilities, have been reserved pending further research.

And I would add, in the last draft of the uniform standards that we have seen, there are some substantial deviations from the minimum guidelines and requirements that will also need to be addressed.

Finally, it is claimed that other Federal, State, and nonprofit agencies can take over the Board's technical assistance responsibilities. At a time when all these agencies are being hard hit by budget cuts, how can anyone expect that they will take on added responsibilities?

I will submit my prepared statement for the record.

Senator ANDREWS. It will appear in the record.

Mr. ZUKAS. Thank you for the opportunity to address you.

Senator ANDREWS. Thank you for the efforts you have made to come here.

[The statement follows:]

STATEMENT OF HALE ZUKAS

I would like to focus on the contention that the Board is not needed because its responsibilities can be assumed by other Federal agencies. Let's examine this contention as it relates to my particular area of interest, transportation. The Board's responsibilities in this area would, of course, devolve onto the Department of Transportation. Now, there are no doubt some people at DOT who have acquired considerable knowledge about particular isolated aspects of the needs and problems of disabled people in the course of projects in which they have been involved. But there is nobody at DOT with comprehensive knowledge of a broad range of issues relating to the subject. Recognition of this fact may have been a reason Congress assigned the Board the responsibility for insuring "that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons." This is now the case more than ever, for the reductions in force sweeping DOT have, coincidentally or not, taken a particularly heavy toll among those working in the area of transportation for the disabled.

By contrast, the Board's transportation specialist is extremely knowledgeable and is widely regarded as one of the country's foremost authorities in the field. The Board is thus much more capable of addressing the often complex questions involved in transportation accessibility.

I would like to introduce my next point with one of the most frustrating casualties of the budget cuts at DOT. A few years ago UMTA undertook a project to develop an escalator modification kit which, when incorporated into a new or existing escalator, would make that escalator accessible to semiambulatory people and wheelchair users.

Successful completion of this project would be a major breakthrough, for provision of vertical access in existing facilities is probably the most difficult and costly problem in the entire area of accessibility. The escalator modification kit promises to be a way of solving this problem at a drastically reduced cost.

Phase 1 of the project has been completed; a design for the kit has been developed. Phase 2, which entails construction of a prototype, testing and other steps necessary to bring the kit to the production stage, would require an estimated $560,000. The savings from using the kit would be such that this investment would be repaid after just nine installations. However, the research budget at DOT has been virtually eliminated, and there is no money available to take the project to completion. It's a crying shame; a classic example of being pennywise and pound foolish.

The point of this example is twofold: There are a number of topics in the field of accessibility where research is needed, and this research is less likely than ever to be undertaken by other agencies. Promoting such research, on the other hand, is one of the Board's statutory mandates. In fact, last September the Board was presented with a proposal to contract with the National Bureau of Standards for research into several areas, including fire and life safety, vertical access, and surface treatments, among others. The contract was rejected on a virtual party line vote. In order to insure that the Board is able to fulfill its congressional mandate in this area, I would respectfully suggest that a portion of our 1983 appropriation be earmarked specifically for research.

Thank you very much for the opportunity to address you.

BIOGRAPHICAL SKETCH

Hale J. Zukas is the coordinator of the department of community affairs for Berkeley, Calif., an agency that works to change the physical and social environment to meet the needs of disabled residents. The department has been active in efforts to eliminate architectural and transportation barriers and acts as an advocate for disabled persons.

Zukas has worked on curb ramp construction programs, advised groups on barrier-free design, and served as a consultant to the Bay Area Rapid Transit District—BART. In addition, Zukas has testified at numerous administrative and legislative hearings on various issues concerning disabled people.

He is cofounder of Berkeley's Center for Independent Living, an organization working with disabled residents to meet their needs.

Zukas is affiliated with various organizational and community activities relating to the handicapped. For several years, he has served on the center's board of directors.

He has published "Why Aren't Disabled People Using BART?" an analysis of the low transit ridership by disabled people, and he coauthorized "The Impact of BART on the Physically Disabled," a survey of disabled people's travel behavior and BART's effect on that behavior.

Zukas received a B.A. in mathematics from the University of California where he was an honors graduate.

On December 4, President Carter appointed Zukas, who has severe cerebral palsy, to a 1-year term on the Federal Architectural and Transportation Barriers Compliance Board.

STATEMENT OF WILLIAM PASSMORE

Senator ANDREWS. Mr. Reynolds?

Mr. REYNOLDS. Mr. Chairman, Mr. Passmore is also a member of the Board and would also like to make a short statement.

Senator ANDREWS. Mr. Passmore?

Mr. PASSMORE. Mr. Chairman, it is indeed a pleasure to sit here before you at this noon hour on behalf of the Architectural and Transportation Barriers Compliance Board, and for millions of other handicapped Americans whom we represent.

It encourages me and gives me that added incentive to continue to go on and fight the fight because I know there is a mechanism set forth by which we can be heard. It gives me encouragement because, regardless of one's disability, one's color, one's creed, that voice is not being put aside.

Many times philosophies may differ, but I assure you, only in America can your voice be heard. As a public member I am pleased to be involved in the Board's activities which address the pertinent needs of our handicapped community which, incidentally, has grown rapidly in the past years due to increased accidents, and the fact that Americans are living longer, because of new medical techniques.

During our Board's existence—I am very proud to have been one of the initial Board members—many activities have been carried out such as technical assistance to Federal agencies, architects and designers; compliance and enforcement activities, and the provision of legal and technical advice to the chairperson, to the Board members, and to the Executive Director.

The Board has received over 20,000 inquiries and 106 complaints over the past year. This could have been doubled had not handicapped Americans been confused as to the fate of the Board.

On the final revision to the Board's minimum guidelines and requirements for standards we received over 3,600 comments and 97 percent of those who commented were in favor of the retention of the guidelines. The number of responses is quite significant because, as you well know, when comments to a notice of proposed rulemaking are solicited the response is usually very poor. This again shows you that we, who are handicapped, are now trying to be heard.

You might ask, what has happened in the past year, 1981? Let me assure you, your dollar has not been wasted. On November 25, 1980, the Board published in the Federal Register revised final rules providing the practice and procedure for the compliance hearing. This was an updating of rules first published on December 10, 1976. The revisions were approved unanimously in September 1980.

The revisions were necessary to be consistent with the 1978 amendments to the Rehabilitation Act. The rules provide a way for the Board to enforce the Architectural Barriers Act.

One would ask what we did about enforcement. In our enforcement aspect we are not the type of agency that "sits around with their hands on their heads" trying to enforce everything. We try to be amenable with all parties and concerns. We take complaints and try to keep them out of the courts by amicable solutions.

There is no other—mind you—mechanism set forth in the Federal Government where this can happen.

During the past year, we have had technical seminars throughout the country, in 22 States, mind you. We have gone in to disseminate this type of information so those who cannot get to Washington can know what is happening in the handicapped community.

As far as the communications area, we have fallen far short because our attention has been focused on trying to develop the final rule. But we continue to strive to deal with the communications area so our hearing and visually impaired friends can have their rights in this great world of ours.

Our standards committee has had many meetings. I have been sometimes somewhat disgusted by flying 1,200 miles to come to a meeting and only have the public Board members present. This is not to make any accusation that all Federal members are bad because we have had some input from the agencies.

During the past year, the Board staff has had exhibitions throughout the country showing what we have done. We worked very closely with the administration in fiscal year 1981 for the International Year of the Disabled Person. We have promoted the minimum guidelines and requirements in conducting training in its application and interpretation to the States. And during the past year we also sent out millions of publications.

Your Honor, we have only just begun. Our work must continue, to insure that all Americans have access to the many great things that America has to offer. Do not forget, you too can benefit by our contribution to society. With your help these goals can be achieved. Thank you.

Senator ANDREWS. Thank you very much, Mr. Passmore.

[The statement follows:]

STATEMENT OF WILLIAM PASSMORE

Mr. Chairman and all you distinguished august panel, it is indeed an honor and pleasure to be able to address you this afternoon on behalf of the Architectural and Transportation Barriers Compliance Board and some millions of other handicapped Americans who we represent. It encourages me and gives me that added incentive in that in our great country of America that regardless of your disability, race, color, or creed, there is still a mechanism that is in place that all our voices can be heard. Many times our philosophers might suffer, but just to have this great opportunity, I can assure it could happen only in America.

As a public Board member, I am pleased to have been involved in the Board's overwhelming concern in addressing the pertinent needs of our handicapped community which incidentally is growing in rapid proportion during the past 3 years due to many Americans living longer and new medical techniques that allow longer life for those who have been destined to death.

During our Board's existence, many activities, such as technical assistance to Federal agencies, architects and designers, compliance and enforcement—our office provides legal services as special adviser to the chairperson, Board members, Executive Director.

The Board received over 20,000 inquiries and 106 complaints just during the year that passed. This number would have doubled, but many handicapped persons were confused as to the continued existence of the Board.

Compliance procedures.—The Board published as a final rule in the November 25, 1980, Federal Register revised practice and procedures for compliance hearings updating those first published December 10, 1976, were approved unanimously September 1980. The revisions were necessary to be consistent with the 1978 amendments to the Rehabilitation Act of 1973.

Enforcement.—Words on guidelines.—Two major cases—(Chicago subway and Atlanta inaccessible courtroom for the rights of disabled persons to serve in dignity and safety.

Technical seminars.—One-day or 2-day seminars with Board members acting as resource people throughout the 22 State area.

Communication.—The Board continued to be concerned about the 1978 mandate from Congress to explore ways to remove barriers to handicapped persons.

Standards committee.

Board staff exhibits.—International Year of Disabled Persons; participated in efforts in promoting the Board's minimum guidelines and requirements and conducting training in this application and interpretation in the States.

Publications.—Sent out thousands.

BIOGRAPHICAL SKETCH

William A. Passmore is a job developer with the Federal Programs Office in East Chicago, Ind., where he has earned national recognition for placing and counseling disabled individuals.

Passmore's career helping others started on a purely personal basis. He lost both legs through a football accident and during his long convalescence at East Chicago's St. Catherine's Hospital, he began visiting patients on Sundays. This experience led him to visit not only on Sundays but during his lunch hours as well. St. Catherine named him its 1967 Visitor of the Year.

He began doing volunteer work for handicapped and disadvantaged persons. Later, he became interested in rehabilitation and employment preparation programs at the Indiana State Prison in Michigan City and began studying penology. He was a driving force in organizing Convicts Anonymous and Convicts Unlimited. The former is a group therapy program within the prison while the latter helps exoffenders find jobs.

Passmore served as an administrative assistant at Indiana University's Northwest Campus Special Services Department in Gary. He continues to work on a volunteer basis, recruiting indigent students for Purdue University and football prospects for the University of Wisconsin.

Passmore is a member of the President's Committee on Employment of the Handicapped and on the board of directors for Emergency Referral Services, Tradewinds Rehabilitation Center for Physically Handicapped Children and Adults, East Chicago Salvation Army. He is on the executive board of Tri City Comprehensive Mental Health Center. He also is a former member of the board of directors of the National Easter Seal Society.

Passmore has received many awards, including the President's Award for Meritorious Work for Exchange Club and the Jaycee Chamber International's Senator award for excellence and achievement. He was named Handicapped American and Hoosier of 1968.

Passmore was graduated from the East Chicago Business College and attended Indiana University in Gary and Calumet College at Hammond, Ind.

On December 4, President Carter appointed Passmore, a double amputee and wheelchair user, to a 3-year term on the Federal Architectural and Transportation Barriers Compliance Board.

Passmore also serves on the Governor's State commission on handicapped and was recently appointed to a 3-year State youth advisory council.

LETTER TO EDWIN MEESE III

Senator ANDREWS. Mr. Reynolds, we have a letter you wrote to Ed Meese, Counsel to the President back on December 16, 1981, in your position as acting chairperson.

You wrote such a letter? I assume, this is not something someone else put together?

The subcommittee has come across a letter that you wrote in your position as acting chairperson to Ed Meese on December 16, 1981. I assume you did write a letter at that particular point in time, and this is your letter?

Mr. REYNOLDS. That is correct.

Senator ANDREWS. I will put it in the record at this point in time because I think it says it quite well and directly. I realize the problem that you have in being a spokesman for the administration on the zero budgeting. You did not provide this letter to us, we got it from another source. But I think it is an excellent one and I think it deserves to be in the record.

[The letter follows:]

LETTER FROM WILLIAM BRADFORD REYNOLDS

DECEMBER 16, 1981.

Mr. EDWIN MEESE III,
Counsellor to the President, the White House,
Washington, D.C.

DEAR MR. MEESE: This is an appeal to the Budget Review Board for a decision reversing the Office of Management and Budget—OMB—recommendation that no funds be provided for the Architectural and Transportation Barriers Compliance Board in the President's fiscal year 1983 budget request.

There are compelling reasons for continuing funding for the Board through fiscal year 1983. In recent months, the Board has worked successfully with both the public and private sectors to develop useful accessibility standards that are cost sensitive. This effort has resulted in an excellent notice of proposed rulemaking announcing significant modifications to the Board's minimum guidelines and requirements so as to more closely align them with national and Federal accessibility standards.

There is now a much improved rapport between the administration and the leadership of the handicapped community because of the recently concluded successful negotiations over modifications to the guidelines and requirements. That cooperative spirit can be expected to continue with the addition in the coming months of four new public Board members.

One cannot ignore that during the past several months the struggle over the Board's survival and the fate of its accessibility regulation was played out, repeatedly, in the news media across the Nation. The Board became a cause célèbre for Members of Congress, veterans' organizations, and physically handicapped individuals and their organizations, all of whom forcefully resisted zero funding of the Board for fiscal year 1982. Seeking so soon after that experience to eliminate all funds for the Board in fiscal year 1983 is to invite once again precisely the widespread negative reaction of the handicap community that we have just successfully neutralized. Such a controversy at this time would serve only to miscast the President and this administration in a position of being against another strong and vocal sector of the populace—that is, handicapped persons. That is an image which both the President and the Vice President have explicitly disavowed. I would think we all would want to be most careful that budgetary decisions not create misperception of the sort described—especially when the amount involved is relatively so insignificant.

Continuation of the Board through fiscal year 1983 is necessary to fulfill its statutory mandate under the Rehabilitation Act. Reserved portions of the guidelines and requirements—the development of which by unanimous consent of the Board was deferred at the last meeting—must be completed. In addition, the Board serves as a valuable resource for the four agencies currently developing a uniform Federal accessibility standard. The staff is exceedingly small, but its special expertise in the area of the Board's primary responsibility makes it uniquely effective. The administration should not, in my judgment, dispense with this one direct link to the handicap community before it and the public are satisfied that the difficult questions in the area of cost-effective accessibility criteria have been resolved. This argues strongly for funding the Board through fiscal year 1983 at current levels.

I would also note that, under the Board's authorization statute, it is charged with responsibility to insure compliance with accessibility standards promulgated under the Architectural Barriers Act. This is one of the principal functions for which the Board was originally created by Congress and which Congress expects to be continued. It is also a function which, because it affects all other agencies of the Federal Government, cannot be delegated or reassigned to any of them. Historically, the Board has resolved almost all complaints amicably and has resorted to litigation only in rare circumstances. It can effectively continue this activity within the limits of the proposed budget figures submitted.

In conclusion, there are compelling policy and programmatic reasons for the Board to be continued for another year at its current level—$1.9 million. The risk of a fracture of relations between the administration and the disabled community is great if the Board is terminated; such a result can and should be avoided, especially in light of the current cooperative attitude that has been recently established. Furthermore, the disruption of the useful work now being done by the Board would be counterproductive. Therefore, I request reconsideration of the Office of Management and Budget's recommendation that the President's fiscal year 1983 budget request not include $1.9 million for the Architectural and Transportation Barriers Compliance Board.

Sincerely,

WILLIAM BRADFORD REYNOLDS,
Acting Chairperson.

UNIFORM ENFORCEMENT

Senator ANDREWS. Mr. Reynolds, it seems as though the Board has the unique function of uniform enforcement of the guidelines throughout the Government.

Since the Government agencies are the target of your enforcement responsibility—Mr. Zukas brought this point up a minute ago and it is an excellent one—it would seem that turning this duty over to them would be like letting the fox guard the chicken coop.

How seriously do you expect the agencies to take this responsibility?

Mr. REYNOLDS. Well, Mr. Chairman, I guess that the difficulty I have with that concern is that it does assume that the agencies are not going to operate in a lawful or responsible manner with regard to their own regulations and requirements in this particular area.

Certainly, under this administration none of the agencies are going to be allowed to disregard the requirements in this area or any other area. I would hope that the assumption would be that they would act lawfully and not act unlawfully.

Senator ANDREWS. What kind of monitoring of their work would we have? I assume that every agency and every government is a good-faith agency and government, but sometimes it is wise to monitor what they are doing.

Mr. REYNOLDS. I am sure that is right. I guess there are two thoughts I have on that.

One is that the agencies are now coming toward the end of the process that has taken perhaps too long to develop meaningful standards in this area. Once these standards become operational, I think that there is a mechanism by which anybody in the private sector or in the public sector could certainly call the agencies into question if they felt that they were not adhering to those requirements.

The other monitoring technique, if you will, is the one that I suspect most agencies in Government are responsive to, or have to be responsive to, and that is the ability of people through complaints or court actions to call an agency to task if indeed it is not complying with its regulations or not doing what it is committed to do by law.

I think that is how, in a general manner, the Government operates on all levels, and that that is the perhaps unique monitoring technique that this country offers.

Senator ANDREWS. Mr. Reynolds, if the Board was no longer funded, would some specific Federal agency assume the Board's responsibility, or would it totally be a self-policing action?

Mr. REYNOLDS. Well, to a large extent it is self-policing now—to a large extent because the Board does not have a monitoring function over agencies with regard to buildings that are pre-1968 and are not subject to the Architectural Barriers Act. All of those complaints as to those buildings which I think are the ones that probably are a great deal of concern because they were built at a time before the national attention was focused on this need are ones that the agencies themselves now have to monitor.

As to the post-1968 act situation, I think that the administration's view would be that the agencies would be monitoring those activities. There the concern, I would suspect, for the most part would relate to new construction and the assurance that those new constructions did comport with whatever the accessibility requirements are that the law has put in place, and less of a problem of going back and taking buildings that were built earlier and making them accessible.

There is a period of time, obviously, when this particular situation has to work itself out. There are going to be buildings between 1968 and some period of time that will be required to be improved in order to make them accessible. I think that the agencies under their standards will capably attend to that particular requirement.

But we really have three different situations. A large number of buildings that are pre-1968 are now by law monitored and corrected only by the agencies and not by the Board.

We have those buildings built after 1968 and between, let us say, today—although I do not want to be held to that particular date—where I suspect some of them might still have to be revisited in order to insure that there is better access than when they were originally built.

And then there will be buildings built in the future, under existing guidelines and standards—both in the private and the public sector—which presumably will at the time they are built attend to the accessibility requirements, and in those instances I think that there will be less and less of a complaint problem.

Ms. GRANT. Mr. Chairman?

Senator ANDREWS. We have a comment over here.

Mr. MYERS. I would like to comment. You are speaking about another agency taking over the work of the Board. The administration and others may think of the minimum guidelines as a finished product, but I would like to say again, that it is not a finished product.

The communications area has not been addressed. We still have communication barriers and during the time that the Board was developing the minimum guidelines it had to address many different areas, such as entrances, bathrooms, elevators, and so forth.

Also, the Board worked on the area of telecommunications devices for the deaf and tactile warning for the blind. But at that time they did not have enough information in those areas. Also, at that time I was not a member of the Board.

There was no one on the Board to give a big push and to provide the information in those areas. So, it was the decision of the Board to set those areas aside with the understanding that they would work on them later. That work is still waiting to be addressed.

I would hope that the Board would continue and address those issues as mandated in the law by the Congress.

Ms. GRANT. Mr. Chairman, I would like to make a couple of points regarding this question.

First of all, we must remember that Congress created this Board precisely because the agencies were not carrying out their mandate under the Architectural Barriers Act—it was not working. The mechanism was not working.

So, the Compliance Board was created to help insure that the act would work.

Second, if you have different agencies that perform the same functions our Board is performing, you will have a significant duplication of effort. With the small number of staff that we have right now, we are able to provide expertise in several different areas regarding accessibility. This will be duplicative if it is given out to different agencies.

Furthermore, it is important to remember that litigation is expensive. Disabled people do not have a great deal of money to spend on litigation and perhaps the number of complaints would drop because of that reason. Through this Board we are able to litigate against different agencies when they do not comply with the act.

Fourth, the administration says that because the minimum guidelines will be finished and because the standards based on these guidelines, will be promulgated the Board's work is finished.

As I said earlier, the draft that we have seen most recently of the uniform standard departs substantially from the minimum guidelines and requirements in which consumer and Federal members had had input. It departs in the areas of additions, alterations, leases, and scoping; it does not even address those issues. That is very important to us.

So, this is why we feel that the Board must continue in order to insure that the standards adhere to these guidelines.

Thank you.

Senator ANDREWS. Mr. Reynolds, what is the status of the minimun guidelines released by the Board in January of 1981, especially in light of your newly proposed guidelines?

Mr. REYNOLDS. The status of—Mr. Chairman, I am not catching the end of your questions because I cannot hear you. I am sorry.

Senator ANDREWS. What is the status of the minimum guidelines released by the Board in January 1981, in light of your newly proposed guidelines.

Mr. REYNOLDS. Well, the Board's guidelines of January 1981 are the ones that are currently in effect. The new proposed guidelines are a recommended modification of the January 1981 guidelines, and they are out for comment right now.

Senator ANDREWS. And if adopted, when will they take effect?

Mr. REYNOLDS. Well, the comment period, I believe, ends sometime early next month.

Ms. GRANT. It ends on Monday, March 15.

Mr. REYNOLDS. It ends on Monday, March 15. Then there will be a review and analysis of that, and then the Board will have to meet again to consider the final draft or the final proposal for the guidelines that are now out for notice and comment.

Senator ANDREWS. Can the subcommittee assume that the vote to propose the new guidelines should be interpreted as an endorsement of the changes and new direction the proposed guidelines have taken by the public members of this Board?

Ms. GRANT. I feel that the way you should interpret it is that we were willing to compromise on some of the important areas. We worked with the Federal agencies because we saw that there may be problems with some of the requirements.

But we worked with them. This is what is important here with these revisions. And yes, if we vote to go with the revisions, that will be the case.

Senator ANDREWS. Well most of the things we do in the Federal Government represent a series of compromises of different groups. But we can interpret that these new regulations have your support.

Ms. GRANT. Yes.

Senator ANDREWS. Since the administration has proposed no funding for the Board, we will not be receiving a budget justification. Could you, Mr. Reynolds, with the help of others on the Board, construct a budget for your operations funded at $1.9 million, the same as in fiscal year 1982, and submit it for the record?

Mr. REYNOLDS. There was a budget proposal submitted by the Board in August of last year.

Senator ANDREWS. To the Office of Management and Budget?

Mr. REYNOLDS. Right. I think the level was $2.3 million.

Senator ANDREWS. We picked 1982 as a constant level of funding. Why not then submit that budget that went to OMB to the committee so that we have it?

Mr. REYNOLDS. I would have to check with OMB. I think I can do that. I believe that was asked yesterday.

Senator ANDREWS. You might not be able to in your dual capacity, but perhaps a public member of the Board could. What I want to do is to get that tentative budget in the record. I recognize the dual role that you are playing.

Mr. REYNOLDS. That request was made over in House hearings yesterday and we indicated that we would look into that.

Senator ANDREWS. Well, do not just look into it, we want to get it.

Ms. GRANT. Mr. Chairman, I am the cochair of the budget and planning committee and I would be more than happy to provide that to you.

Senator ANDREWS. If you can make that available to the committee it would be very helpful to us.

It is my understanding that the January 1981 guidelines addressed accessibility guidelines for buildings leased by the Federal Government, but that your most recently proposed guidelines are silent on leased buildings.

If this is the case, what are the reasons for not providing guidance on the accessibility of Federal services located in leased buildings?

Mr. REYNOLDS. That is the case, Mr. Chairman. The reason that the guidelines do not address that is that there was a difference of opinion among Board members as to whether or not the act did indeed cover leased buildings. One view was that the act does require coverage of leased buildings; and there is another view that the law does not require it.

Since that is a legal question, the decision was made that it would be inappropriate to have the guidelines speak to a legal question. These are not regulations, these are guidelines and they are guidelines designed to address design and other accessibility features.

In order that neither of the two different viewpoints be incorporated in guidelines where there was a division of the Board, the judgment was that it was best to leave that decision to the courts where the legal decision should be made in any event, and not to speak to the questions in the guidelines as to whether leased buildings are or are not covered as a matter of law.

Senator ANDREWS. Ms. Grant, you raised the subject of technical assistance. Would this assistance be provided to the agencies?

Ms. GRANT. Provided with the agencies or to the agencies?

Senator ANDREWS. Provided to the agencies.

Ms. GRANT. It is provided to anyone who asks for it. Yes, it is provided to the agencies. They can call upon our experts who can help them in many different areas.

Yes, we work very closely with the agencies on technical assistance.

Senator ANDREWS. How would this technical assistance be provided if this Board were dismantled?

Ms. GRANT. That is an excellent question. That is one of our very big concerns that technical assistance continue to be done. It is important to let people know what accessibility means and how to define it. If we can begin this in the design stage, then we save so much money in creating accessibility. That is why technical assistance is so vital.

Senator ANDREWS. As you know, this committee took the lead last year in retaining the funding for the Board.

Ms. GRANT. Yes.

Senator ANDREWS. I would like to say that I have heard nothing here today that would dissuade me from my continued support of the Board.

SUBMITTED QUESTIONS

I would like to thank you for appearing here today, and I look forward to your testimony in future years. We have a number of questions that we could have submitted to you for answering in the record. Of course, the record will be open if you want to include any other subject matter. I do appreciate your appearing before the committee today. You have made an excellent record. Thank you very much.

Mr. REYNOLDS. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted for response for the record:]

Questions Submitted by Senator Andrews

COMPLIANCE/ENFORCEMENT

Senator Andrews: Have you taken on any enforcement cases this year similar to your action against the CTA regarding the State Street Mall? If so, please describe.

Mr. Reynolds: The ATBCB has taken on two proceedings similar to the action involving the State Street Mall. Both cases involve access to court rather than transit facilities.

In one administrative proceeding the Board sought to have courtrooms in the Russell Building in Atlanta, Georgia, made accessible. The violations alleged were the steps to the judges' benches, jury boxes, witness stands, and court reporter areas. An administrative law judge in the attached opinion ruled there were no violations of the ANSI standard issued by GSA as those items were personal property in the already constructed building and not subject to the Architectural Barriers Act. Another case involved the design of courtrooms in new structures to be erected in Springfield, Massachusetts, and San Jose, California. The administrative law judge ruled there were no violations as the standards issued by GSA did not apply to the judges' benches, jury boxes, and witness stands. (Attachments 1a and 1b)

A few complaints indicate a possibility of enforcement proceedings (i.e., office buildings in Alaska and Pennsylvania and several post offices). More remarkable is that several universities which have had complaints filed against them, have moved swiftly to try to resolve the complaints so no enforcement or 504 proceedings are taken.

Mr. Passmore: It was very difficult to undertake any actions last year. We were literally fighting for our life as an agency. Not knowing whether or not we would exist had a very chilling effect on our ability to initiate actions. We could not start something we weren't sure we could finish.

Nevertheless the ATBCB did engage in two administrative actions similar to the State Street Mall case.

In one administrative proceeding the Board sought to have courtrooms in the Russell Building in Atlanta, Georgia, made accessible. The violations alleged were the steps to the judge's benches, jury boxes, witness stands, and court reporter areas. An administrative law judge in the attached opinion ruled there were no violations of the ANSI standard issued by GSA as those items were personal property in the already constructed building and not subject to the Architectural Barriers Act. Another case involved the design of courtrooms in new structures to be erected in Springfield, Massachusetts, and San Jose, California. The administrative law judge ruled there were no violations as the standards issued by GSA did not apply to the judges' benches, jury boxes, and witness stands.

A few complaints indicate a possibility of enforcement proceedings (i.e., office buildings in Alaska and Pennsylvania and several post offices). More remarkable is that several universities which have had complaints filed against them, have moved swiftly to try to resolve the complaints so no enforcement or 504 proceedings are taken.

Senator Andrews: Please provide for the record the number of complaints received by the Board regarding accessibility. Please categorize this information by relevant subject areas and indicate which concerns were found to have an actual violation of existing standards.

Mr. Reynolds: The number of complaints received are listed as follows:

1977	100	1980	160
1978	155	1981	106*
1979	176	1982	53**

Note: 1978 and 1979 do not include the complaints filed as a result of the Board's field surveys

*There is reason to believe that the drop in complaints in 1981 was due in part to the confusion surrounding the Board's existence.

**There are more 1982 complaints now than at the same time last year.

Below are listed a sampling of the categories used by the Board to determine the nature of a violation. All the categories were found to have actual violations of existing standards:

Public toilet rooms
Wall mounted urinals
Stall size and configuration
Mirrors and shelves
Water fountain spouts and controls
Entrance doors
Space location and identification
Racks, dispensers and disposal units
Ramp handrails
Common level or ramp connected
Door width
Stairs
Doorway thresholds
Warning signals
Public entrances
Public elevators
Parking lots
Ramps with gradients
Ramp slope
Wheelchair space

Mr. Passmore: The number of complaints received are listed as follows:

1977	100	1980	160
1978	155	1981	106
1979	176	1982	53

The drop in complaints in 1981 was due in large part to the confusion surrounding the Board's existence. Many persons indicated that they deliberately did not file complaints because the Board was apparently to go out of business. By contrast, there are more 1982 complaints now than at the comparable point in 1981.

It should be kept in mind that the Board does not receive or routinely become aware of complaints made directly to the agencies. The agencies have chosen not to make them available to us. Thus the Board does not really know the true extent of non-compliance.

BOARD'S MINIMUM GUIDELINES AND REQUIREMENTS

Senator Andrews: Please characterize the major differences between the January 1981 guidelines and those currently under consideration.

Mr. Reynolds: Amendments to the technical provisions (Subpart D) of the rule are proposed in order to reduce the number of differences between the Board's Minimum Guidelines and Requirements and the American National Standard Institute "Specification for Making Buildings and Facilities Accessible and Usable by Physically Handicapped Persons" (ANSI A117.1-1980). It is hoped that these amendments will clarify further the technical provisions. There remain a number of technical provisions requiring research prior to refining the existing requirements or issuing new criteria. Examples of these provisions include combined carpet thickness; egress provisions; ground and floor surface slip resistant criteria; tactile warnings; closure and opening forces for exterior door pressures; safety requirements for platform lifts; window pressures and operating mechanisms; tactile signage; information cues such as colors, mapping, and signing; visual alarms and other sensory alerting devices; and pressure requirements for equipment controls and operating mechanisms.

The Board is also proposing amendments to the scoping provisions of the Guidelines and Requirements that would provide additional flexibility for agencies implementing the requirements. ANSI 1980 does not address scoping (i.e., minimum number of accessible spaces and elements required to make a facility accessible). As issued in January 1981, the most controversial provisions of the scoping section of the Guidelines and Requirements are those relating to Parking and Passenger Loading Zones -New Construction [1190.31(b)]; Entrances - New Construction [1190.31(h)]; Toilet and Bathing Facilities - New Construction [1190.31(k)]; Drinking Fountains - New Construction [1190.31(e)]; Assembly Areas - New Construction [1190.31(s)]; Additions [1190.32]; Alterations [1190.33]; Leases [1190.34].

The Board has received public comment on each of the foregoing scoping provisions and is currently evaluating that information in connection with the development of final guidelines and requirements.

Ms. Grant: Amendments to the technical provisions (Subpart D) of the rule are proposed in order to reduce the number of differences between the Board's Minimum Guidelines and Requirements and the American National Standard Institute "Specification for Making Buildings and Facilities Accessible and Usable by Physically Handicapped Persons" (ANSI A117.1-1980). It is hoped that these amendments will clarify further the technical provisions. It is not the intent of these proposed technical amendments to reduce accessibility. There remain a number of technical provisions requiring research prior to refining the existing requirements or issuing new criteria. Examples of these provisions include combined carpet thickness; egress provisions; ground and floor surface slip resistant criteria; tactile warnings; closure and opening forces for exterior door pressures; safety requirements for platform lifts; window pressures and operating mechanisms; tactile signage; information cues such as colors, mapping, and signing; visual alarms and other sensory alerting devices; and pressure requirements for equipment controls and operating mechanisms.

The Board is also proposing amendments to the scoping provisions of the Guidelines and Requirements that would provide additional flexibility for agencies implementing the requirements. ANSI 1980 does not address scoping. As issued in January 1981, the most controversial provisions of the scoping section of the Guidelines and Requirements are the following (also see Attachment 2):

1190.31(b) Parking and Passenger Loading Zones - New Construction. Agencies have raised questions concerning the need to provide accessible parking for employees prior to determining if any handicapped employees would be hired or would work at the facility. Public members are concerned that the lack of accessible parking could influence an agency's decision on hiring a handicapped person or result in a delay of hiring until such time as the parking space is modified.

Moreover, agencies do not wish to be required to provide parking for handicapped visitors at new facilities.

A handicapped person may not have the stamina or capability to traverse more than a short distance. In order for a person to use a building, he or she must be able to get to and from the facility. Lack of close parking could effectively bar a handicapped person from being able to use the building. No changes to the January 1981 regulation were proposed in the January 27, 1982, notice (Attachment 3). However, agency comments have again raised the issue.

1190.31(h) Entrances - New Construction. Agencies continue to recommend that only one entrance to be accessible in newly constructed buildings. Changes were proposed in the January 27th notice that would provide one accessible entrance at each grade floor level and those serving transportation facilities, public streets and sidewalks, and accessible vertical access. It was also recognized that it was preferable that all or most entrances and exits be accessible. It was recognized in the notice that this is particulary critical in emergencies.

Agencies also do not recognize the approach walk, stairs or ramps leading to the entrance platform, as being part of the "entrance." What good does it do to make the "entrance" doors accessible if there are stairs leading to it? Public members believe that handicapped people should be allowed to use a building to the same extent as an able-bodied individual. Why should more entrances serve the able-bodied than the disabled, especially when it is much more difficult for a disabled person than for the able-bodied to search for the one accessible entrance?

1190.31(k) Toilet and Bathing Facilities - New Construction. Agencies are requesting the total removal of the standard 5'x5' toilet stall technical specification for new construction requirements. The January 1982 proposal would require only one standard size toilet stall (unisex or one for each sex) per building. The 5'x5' stall provides accessibility to persons unable to use the smaller 36" or 48" stall. The 5'x5' standard stall must be retained as the technical requirement used for the construction of new toilet facilities.

1190.31(e) Drinking Fountains - New Construction. The guidelines provide that in newly constructed buildings where only one water fountain is provided that it be dual level so that people in wheelchairs, short statured people, tall people and individuals with back problems can use the fountain. Although not everyone can use the lower fountain, agencies do not wish to be required to provide the higher level fountain. The January proposal would make the higher level fountain a recommendation only.

1190.31(s) Assembly Areas - New Construction. Listening systems to assist the hearing impaired are currently required in all assembly areas. The January 1982 proposal clarifies this provision by allowing both permanent and portable listening systems depending upon room capacity. Agencies do not want to be required to provide listening systems unless a public address system is permanently installed in a room having a capacity for 50 or more people. The public members believe that this section is critical and could potentially help more people at a smaller cost than other provisions. Fourteen million people in the United States have hearing impairments and many of these people could substantially benefit if listening systems were provided in meeting, conference, and assembly rooms. This system is particularly critical in those rooms not having a permanent public address system; precisely rooms that would be ignored if the agency recommendation is accepted.

1190.32 Additions. Agencies wish this section to be advisory or deleted. Changes exempting mechanical rooms, storage areas and other minor additions were proposed in the January notice. Public members ask what good is an accessible addition to a building if a handicapped person cannot enter the facility or if it has no accessible toilets? The current wording in the guidelines provides flexibility to the agency in making a decision on the method used to provide access to the addition.

1190.33 Alterations. Agencies wish this section to be advisory or deleted. Changes were proposed in the January notice that would provide additional flexibility to the agencies in administering this section. Without the requirements of this section, public members are concerned that existing buildings will never become accessible.

1190.34 Leases. The United States Postal Service interprets the Architectural Barriers Act to permit the leasing of inaccessible space both for new leases and renewals of existing leases. The United States Postal Service believes that alterations for accessibility need not occur until such time that alterations for other reasons are taking place. The Board debated the issue in October, 1980, and concluded that leased space must be accessible at the time of the lease or occupancy. The Board also rejected the USPS distinction between renewal and extension of leases. In both situations the Board concluded access is required. The January 1982 amendments propose that the Board recognizes that the application of the Architectural Barriers Act to leased buildings is a legal issue and proposes reserving this section.

ENFORCEMENT CAPABILITY

Senator Andrews: Has your enforcement authority or capability been diminished at all in the last year?

Mr. Reynolds: The enforcement authority was not diminished this past year. However, Board resources this past year were devoted to the development of the minimum guidelines and requirements.

Mr. Passmore: Enforcement authority was not legislatively diminished this past year. Also, because of the uncertainty of the Board's future there were fewer complaints. However, the chilling effect on the compliance process of a possible non-funding of the Board cannot be underrated as a practical factor eroding the Board's capability in this area. Agencies also tended to drag out the compliance resolution process with the expectation that the Board would not be in business. The uncertainty of funding also meant that the Board had to weigh its compliance strategy carefully to avoid getting involved in controversies that it might not be around to see through to conclusion. Further because of the uncertainty, certain of the compliance staff left the Board, diminishing the staff capability in this area. Also, the Administration's initiative to zero fund the Board meant a diversion of efforts from ensuring compliance to planning alternative compliance efforts and compliance phase-out.

ACCESSIBLE TRANSPORTATION

Senator Andrews: The 1978 amendments to the Rehabilitation Act gave you the authority to ensure accessibility through minimum guidelines for rolling stock. How do you interpret your authority in this area?

Mr. Reynolds: The question of the extent of Board authority in this area under Section 502(b)(8) of the Rehabilitation Act of 1973, as amended, continues to be under review in light of differing views among members of the Board. The Board's Transportation Committee has formally requested a legal opinion on the issue from the Department of Transportation and from the Board's own legal counsel. This issue will be discussed at the next committee meeting.

Mr. Zukas: While the Board's Minimum Guidelines and Requirements do not pertain directly to public conveyances because of the space constraints inherent to any type of public conveyance, it is clear that Congress intended the Board to oversee the accessibility of rolling stock when it added Section 502(b)(8) to the Rehabilitation Act. Unfortunately, the Department of Transportation (DOT) a member of the Board's Transportation Committee, contends that this section does not give the Board any authority over specifications for buses, rapid transit vehicles, or rail stock, but has not said what it believes the section does mean. As a result, DOT did not consult with the Board on its 504 Interim Final Rule or its proposed suspension of the so-called "white book" and there is no indication the Board will be consulted regarding the forthcoming proposed 504 regulation. The Board's former chairperson did file comments to the public docket, a copy of which is attached as Attachment 4.

The Interim Final Rule is silent on the issue of accessibility of new substantially renovated rapid rail systems. Stations are covered by the Architectural Barriers Act but there is no agency currently making sure that vehicles and platforms are designed to coordinate with each other. A recent series of calls to the Board's Office of Technical Assistance indicate that UMTA's regional offices are not correctly informed about the requirements of the Architectural Barriers Act and have been incorrectly advising recipients and designers that there are no longer any requirements for access in renovation projects. The Board has a potentially important role in filling in the gaps left by DOT.

Senator Andrews: What has been your role in ensuring accessibility in rolling stock?

Mr. Reynolds: Since the division of responsibility between the Board and DOT continues to be unclear, the Board has refrained thus far from playing an active role in this area. Our principal activities have thus been confined to providing technical assistance and referring inquiries to appropriate people in the Department of Transportation.

Mr. Zukas: Since DOT does not generally consult with the Board on these issues, our role has been limited. For example, no opportunity was afforded the Board on the DOT decision to remove the requirement for lifts on new buses until after the fact. Similarly, the Board was not consulted on those features of the so-called "white book" specification for Advance Design Buses which relate to accessibility, both for wheelchair users and semi-ambulatory passengers.

In January 1981, the Board received a complaint from a manufacturer that Amtrak had changed the specifications for the accessible restroom in a large order of Amfleet cars. Fortunately, subsequent discussions with Amtrak officials revealed that the changes were consistent with the Minimum Guidelines and Requirements for Accessible Design, and potentially expensive changes were not needed in those cars already under production. It would have been far better to consult with the Board while the designs were still in the blueprint stage. This will not happen so long as DOT continues to regard the Board as an interloper in its affairs.

Senator Andrews: What are your intentions for future involvement in this area, assuming the Board continues to be funded?

Mr. Reynolds: Once the duties and responsibilities of DOT and the Board are clearly defined, we would expect to work closely with DOT in addressing various unresolved issues in this area.

Mr. Zukas: In the recent series of budget cuts, DOT, especially the Urban Mass Transportation Administration (UMTA), has lost a number of people with expertise in the area of transportation for disabled people. These reductions-in-force have eliminated key people from Policy and Planning, Paratransit and Special User Groups, Technology Development and Deployment, Environment and Safety, and other departments. Several research projects related to access have also been cancelled including the escalator modification kit described in previous testimony, and needs of visually impaired people in subways. We understand, in fact, that UMTA has programmed no funds whatsoever for research or problems of transportation for disabled people.

The expertise that DOT has lost in this area is still vitally needed as is the research it has abandoned. The Board is willing and able to restore, in part, this expertise and to complete the unfinished research projects to the extent that funding is available. There is also a need to define the accessibility requirements for semi-ambulatory persons. A large number of complaints are being received about transit agencies' (with UMTA concurrence) arbitrary restrictions on lift usage.

Moreover, while the Architectural Barriers Act requires that new rapid rail stations be accessible, UMTA regulations are silent on the issue of vehicles and coordination with platforms. It is conceivable that a station might be built properly but the system would not be usable by a disabled person. To date, the Board has found no one in UMTA willing or able to address this issue. Hopefully, the Board and DOT will be able to address this major omission.

In summary, the Board is a valuable resource which can and should be utilized by DOT in carrying out its responsibilities concerning transportation for disabled people as may be inferred from my answer to this and the two preceding questions. I do not think DOT has made adequate use of its resource by consulting with the Board on matters of mutual concern. I therefore would recommend that language be added to the DOT appropriation bill requiring DOT and its constituent agencies to consult with the Board on such matters.

BOARD MEMBERSHIP

Senator Andrews: Please provide a list of Board members as of 12-31-81, including their titles, addresses and affiliations. Provide a separate list with names, titles, addresses, and affiliations of the Board with its new members.

Mr. Reynolds: In December 1981, the terms of Public Board members Mr. Mason Rose, Mr. David Cruz-Velez, Mr. Pat Casey, and Mr. Walter Richter expired. Three new Public Board members have been appointed. They are: Mr. Scott Moore Duncan, Ms. Mary Alice Ford, and Mr. Charles Hauser. Furnished as Attachment 5 is a list of Board members as it stood as of 12-31-81, including their titles and addresses.

The list which follows is the current list of Board Members and Board Liaison Staff. A brief biographical sketch of current Board members, including affiliations, also follows.

[information follows]

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ACCESSIBILITY COST DATA

Senator Andrews: Please provide a comparison of the costs of implementing the January 1981 guidelines with those associated with implementing your newly proposed guidelines.

Mr. Reynolds: We have received some informal cost information associated with the Minimum Guidelines and Requirements as it was issued January 6, 1981.

Estimates submitted by the General Services Administration, United States Postal Service, and Department of Defense indicate that the Board's accessibility requirements for new construction and alterations, excluding special use facilities, amount to an estimated 0.3% of the three agencies' budget commitments for new construction and alterations. Accessibility requirements of the Minimum Guidelines and Requirements, based on agency submitted figures, would increase current expenditures by approximately $3.3 million in an annual construction program of an estimated $980 million.

The Defense Department reported an annual savings of approximately $100 thousand dollars. The cost increases that are cited by GSA (including figures submitted from HUD, USPS, HHS, VA, DOT, and USDA) occur in three categories:

(1) Special Use Facilities (i.e., housing, hospitals): GSA attributes $663 million annually to special use facilities if all scoping and technical provisions are applied to 100% of the facilities that could be classified as special use. The bulk of this figure is attributed to housing and assumes 100% compliance of all guideline and requirement provisions to 100% of the dwelling units. The January 27, 1982, proposed amendments to the Minimum Guidelines and Requirements (Attachment 3 which is mentioned earlier), however, reserve the special use section which includes such housing facilities, and limit application of the requirements to only certain common use and public areas of buildings considered to be special use classification.

(2) Existing transit facilities: GSA estimates an annual expenditure of $57.9 million, however, no base year inventory figures are provided so that the total expenditures for items other than accessibility for this program are not known. The proposed amendments published January 27, 1982, should significantly reduce the figure cited by GSA last year since existing transit facilities would be excluded from the vertical access requirements where it is structurally impracticable to make the alterations.

(3) Leased Facilities: USPS attributed $71 million to the leasing of accessible facilities and the Department of Agriculture and GSA estimated a total expenditure of $1.3 million as a result of the Board's interpretation and implementation of the Architectural Barriers Act requirements on leasing. The January 27, 1982, proposal reserves the leasing section's minimum scoping requirements and recognizes that the leasing issue is a legal question. USPS leases

approximately 28,500 buildings; Department of Agriculture leases approximately 4700 facilities; and GSA leases about 1000. In 1980, GSA's Public Building Service Commissioner estimated that "only about half of the Federal workforce labors in federally owned offices" and has a "rent bill [that] will approach $1 billion by fiscal 1985, and we have nothing to show for it but rent stubs."

Mr. Zukas: The relative cost implications of the two versions of the Minimum Guidelines and Requirements can vary greatly, depending on one's frame of reference. In April, 1981, for example, the General Services Administration issued a report entitled "Estimated Cost Differential Between Federal Accessibility Study and the Minimum Guidelines and Requirements for Accessible Design." On the assumption that all federally funded housing units would have to fully meet the requirements of the minimum guidelines, this report put the cost of compliance for housing programs at $623 million. Also included as a cost attributable to the guidelines was the $71 million the Postal Service estimated it would take to make its leased facilities accessible.

The preamble to the proposed revision makes clear that, pending development of Subpart E of the Minimum Guidelines (which will address special-use facilities), the regulations applicable to housing continue to be HUD's Minimum Property Standards. Thus the Minimum Guidelines obviously do not have the cost implications previously alleged for housing Similarly, the Board by reserving Section 1190.34 (an action, incidentally, which many of the comments on the proposed revision have vehemently opposed), is proposing to avoid taking a legal position on the issue of leased facilities.

I could say, then, that the changes being proposed will reduce the cost impact of the Minimum Guidelines by more than $700 million. But this would be a disingenuous response to an even more disingenuous allegation. It has never been the Board's intention to have the Minimum Guidelines apply to all housing units; the Board has always intended to defer the question of the guideline's applicability to housing units until the development of Subpart E some time in the future. The Board's tentative decision not to address the issue of leased buildings does not change the fact that, according to almost all legal opinions on the question (including those of GSA and DOJ as well as the Board), the Architectural Barriers Act of 1968 applies to leased facilities.

Treating your question in a more serious manner is of course preferable to engaging in mere gamesmanship. Answering it adequately, however, is made difficult by a lack of sufficient specific data. In March, 1981, at the request of the Office of Management and Budget, the Board asked the standard setting agencies to provide estimates of the differences in cost between compliance with the Minimum Guidelines and compliance with that agency's existing standard. The response to these requests was limited in both quantity and quality. These responses are furnished as Attachments 6a-e. In briefest summary they were shown below.

The Department of Defense found that in its case, the cost increases resulting from compliance with the Minimum Guidelines would be more than offset by savings. HUD's estimates were based on the assumption that all public housing units it funds would have to comply with the Minimum Guidelines. This assumption, as I have explained above, was wildly inaccurate, so we need not consider the resultant estimates further here. The Postal Service did provide estimates of the cost impact of individual provisions of the Minimum Guidelines: aside from the $71 million cost of making leased facilities accessible (a cost which, as I said earlier, is not properly attributable to the Minimum Guidelines), costs in new construction were estimated to rise by $738,000 (out of total expenditures of $149.7 million) due to the requirements pertaining to entrances, signage and parking; entrance and signage requirements were estimated to increase alteration costs by $999,900; and the costs of building additions were estimated to increase by $465,800 because of requirements relating to entrances, accessible routes and toilets. It is worthy of note that the Postal Service, the most implacable foe of the Minimum Guidelines, could find only five provisions which would increase its costs and even those provisions resulted in minimal increases.

GSA's response to the Board's request for cost data took the form of the report referred to above. GSA seems to have regarded its role as provider of the last word on the subject, for the report addresses the cost impact not only with respect to GSA facilities but with respect to the facilities of all other affected agencies as well. Reading this report is frustrating. Considerable space is devoted to enumerating the provisions of the Minimum Guidelines and Requirements which allegedly have significant cost implications, but in most cases the authors of the report say they are unable to estimate the magnitude of these impacts because of insufficient sample size.

In short, I don't think there is nearly enough data available on which to estimate the total cost implications of accessibility requirements, including those requirements offered by the states, private sector, or Federal Government. This does not mean, however, that accessibility is costly. In fact, it is common to find that actual costs for accessibility are far below what was estimated. For example, Stanford University made the needed alterations to make their campus accessible at a cost of $900,000--a far cry from their original estimate of $11 million.

You may think it is strange that the Board has not undertaken additional cost studies in view of the fact that reducing costs was the alleged motivation for issuing the latest NPRM. The point that needs to be understood is that the development of the NPRM was an essentially political process, in which negotiation, not analysis, played the dominant role.

The foregoing explains why I am unable to answer this question in precise, quantitative terms. I can, however, give some idea of how the NPRM will reduce the cost impact of the Minimum Guidelines by enumerating changes affecting cost (aside from the previsously mentioned modification to the preamble and the reservation of the leasing issue) that have been proposed. These changes are as follows:

1190.3 Definitions: The definition of "structural impracticality" would be broadened to apply to situations where the cost of making an elements accessible amounts to 50% or more the the value of that element.

1190.31(h) Entrances (New Construction): An accessible entrance would no longer be required on each side of a building that has an entrance.

1190.31(l) Drinking fountains and water coolers (New Construction): Where there is one drinking fountain or water cooler on a floor, it would no longer be required to have two levels.

1190.31(p) Signage (New Construction): Raised or incised characters would not be required for temporary information.

1190.32 Additions: Minor additions, such as mechanical rooms or storage areas, which are not normally frequented by the public or employees would not have to comply.

1190.33(a)(2) Alterations: Where new escalators or stairs requiring major structural changes are installed in existing transit facilities, an accessible means of vertical acccess would not have to be provided if it was structurally impracticable to do so.

1190.33(b) Alterations: In facilities which are vacated and totally altered, modifications which are structurally impracticable would not be required.

In addition to the NPRM, the Board published a final rule revising the accessibility requirements for public telephones and as a result substantially reduced the costs attributed to access by telephone enclosure manufacturers.

In some cases, it is relatively simple to calculate on a per unit basis the cost implications of some of the proposed changes; for example, those pertaining to drinking fountains and signage. But this task is much less straightforward in other cases where the quality of design becomes an important factor in the equation. There are innumerable instances where taking an unthinking approach to providing accessibility has resulted in it costing much more than it would have if a little creativity had been brought to bear. In the present instances, for example, the agencies automatically assume that accessible entrances and toilets cost significantly more than inaccessible ones so they conclude that the number required to be accessible should be reduced. As I argued in my comments on the NPRM (ATBCB Docket No. 145 which is furnished as Attachment 7) the cost of making such facilities accessible can be greatly reduced or even eliminated through good design.

This brings me to my final point. The agencies understandably couch their objections to the Minimum Guidelines in terms of cost since that is the kind of argument most likely to have a receptive audience these days. I suspect, however, that underlying these objections is a deep seated (and perhaps unconscious) resistance to change per se. To say that the costs of accessibility can be greatly reduced through good design may not be of much solace to the agencies, for it means that a little more care has to be taken to ensure that buildings are well designed. Agencies would thus have to alter their established ways of doing things to a slight extent, but after a while the new way of doing things will become standard operating procedure and complaints about having to make things accessible will no longer be heard.

Senator Andrews: Identify the different cost criteria set forth in both the January 1981 and newly proposed guidelines.

Mr. Reynolds: There are two provisions in the January 1981 final rule where cost may be used as a criterion to define the applicability of the provision. The first is paragraph 1190.33(b) which provides that if the total cost of all alterations done to a building during any 12 month period amounts to 50% or more of the building's value then not only must each altered element and space be constructed so that it is accessible, but also that there must be at least one accessible entrance, route and toilet facility serving the altered area. This provision has been modified and renumbered 1190.33(c) in the NPRM to provide additional flexibility for the standard-setting agencies. The second provision using cost as a criterion is the exception to 1190.100(d)(3)(iii), which allows floor buttons in elevators to be mounted as high as 4'6" in instances where limiting their height to 4'0" would result in a substantial increase in cost.

In addition to the January, 1981, requirements, two of the proposed amendments to the Minimum Guidelines and Requirements provide that cost can be a factor that may be considered in determining accessibility requirements. Paragraph 1190.33(a)(2) proposes that transit facilities can be excepted from the requirement that an accessible means of vertical access must be provided when escalators or stairs are planned or installed if to do so would be structurally impracticable. Similarly, a new section 1190.33(b) has been proposed which provides that buildings which are vacated and totally altered are to comply with new construction requirements except to the extent where it is structurally impracticable. The definition of "structural impracticability" has also been proposed to be broadened to include costs as a consideration.

Mr. Zukas: There are two provisions in the January 1981 final rule where cost may be used as a criterion to define the applicability of the provision. The first is 1190.33(b) which provides that if the total cost of all alterations done to a building during any 12 month period amounts to 50% or more of the building's value then not only must each altered element and space be constructed so that it is accessible (as is required for all alterations), but also at least one accessible entrance, route and toilet facility serving the altered area must be provided. Although this provision has been modified (and renumbered 1190.33(c)), in substance it is unchanged in the NPRM. The second such provision is the exception to 1190.100(d)(3)(iii), which allows floor buttons in elevators to be mounted as high as 4'6" where limiting their height to 4'0" would result in a substantial increase in cost.

Two of the proposed revisions (January 1982) incorporate cost as a factor to be considered (see my answer to Question 9). One is in 1190.33(a)(2), which provides that in transit facilities where new stairs or escalators are planned or installed, an accessible means of vertical access need not be installed if to do so would be structurally impracticable. It is anticipated that this change could significantly reduce the costs of this provision. Similarly, a new section 1190.33(b) has been proposed which provides that buildings which are vacated and totally altered are to comply with new construction requirements--except to the extent where it is structurally impracticable. The definition of "structural impracticability" has been proposed to be broadened to include costs as a possible factor (see my response to Question 9).

STATE STREET MALL CASE

Senator Andrews: Last year at this time we got into quite a conversation with the former Chairman, Mr. Rose, over the Chicago State Street Mall case. Could you please bring us up to date on that case. What was the outcome of the case and did it set any precedents on accessibility standards for rail stations?

Mr. Reynolds: The Chicago State Street Mall case was settled on the eve of hearing. A copy of the settlement agreement is attached (Attachment 8). That case involved renovations at numerous subway station entrances. Under that agreement construction is proceeding on an elevator which will open in early 1983. Also, preliminary work is underway to design and obtain funding for possibly two more elevators at this complex's stations. Also as a result of the case, the City of Chicago has become much more sensitive on accessibility issues. The City now includes consideration of accessibility in all studies of future upgrading and renovating of subway facilities.

Mr. Passmore: The State Street Mall case was settled. It illustrates the need for the Board. By sagacious negotiations accessibility was achieved in a difficult existing project in a manner that lead to the development of national policy on the issue.

The settlement was reached with the City of Chicago and Chicago Transit Authority. The Department of Transportation disdained participation in the dialogue. Without an ATBCB the complex of subway stations in a major downtown area would have been inaccessible.

The Chicago State Street Mall case was settled on the eve of hearing. That case involved renovations at numerous subway station entrances. Under that agreement construction is proceeding on an elevator which will open in early 1983. Also, preliminary work is underway to design and obtain funding for possibly two more elevators at this complex's stations. Also as a result of the case, the City of Chicago has become much more sensitive on accessibility issues. The City now includes consideration of accessibility in all studies of future upgrading and renovating of subway facilities.

The Chicago case teaches that access must be considered care fully and can be implemented in subway renovations. It reinforces the applicability of the Architectural Barriers Act to subway alterations as well as new construction.

The Chicago case lead to the development of the ATBCB minimum guideline provision that if vertical access equipment, e.g., escalator is planned or installed where none existed previously, or if new stairs (other than stairs installed to meet emergency exit requirements) requiring major structural changes are planned or installed where none existed previously, then a means of vertical access must be provided. 36 CFR §1190.33. The Board has recently proposed deleting that requirement where it is structurally impracticable in transit facilities. 47 F.R. 3949 (Daily Ed. January 27, 1982). The Chicago case has been a fulcrum of debate on that issue. Thus its benefits transcend the particular facilities actually litigated.

RESEARCH ACTIVITIES

Senator Andrews: Mr. Zukas, you raised an interesting point in your opening remarks regarding the research responsibilities of the Board. If money were not appropriated in a research line item, is it your opinion that the Board would not pursue research and development of innovations for accessibility?

Mr. Zukas: As you may be aware, a number of provisions of the Minimum Guidelines have been reserved pending further study. Moreover, several other provisions have on occasion been criticized by Federal agencies on the grounds that there is not enough research to justify them. Nevertheless, during the past year the Federal agency Board members have demonstrated a notable lack of interest in research. This was illustrated most graphically at the September 1981 Board meeting. At that meeting the Board, by a 12-10 vote, defeated a very important research project with the National Bureau of Standards. The targeted areas for technical research had been carefully selected for attention because: they were critical to achieving accessibility, (2) very little is known concerning appropriate technical solutions in those areas, and (3) there were significant opportunities to develop more cost-effective approaches to accessible design.

That vote caused approximately $600,000 to revert to the Department of Education for funding their unspecified year end projects.

In light of these events I fear that the Federal members will not allow the Board to fund research activities unless the Congress designates a specific amount in our appropriations (I would suggest a figure between $400,000 and $500,000, assuming that the total appropriation is approximately the same as in Fiscal Year 1982) to be used for this purpose. This is most regrettable but reflects my best assessment of the situation.

BOARD PRIORITIES

Senator Andrews: If the Board were to continue operation in Fiscal Year 1983, what would be on your list of priorities?

Mr. Reynolds: Development of the technical assistance activities of the Board will receive highest priority. In FY 1983 the technical staff will be re-focused on providing direct assistance to organizations and individuals in need of assistance with accessible design problems. We will also focus on fully developing the technical resources of the Board, including a well-organized and complete technical library. Of major importance will be developing close relationships with the design professions to spread the understanding of accessibility solutions, identify remaining problems and cooperate in developing and disseminating solutions. In the latter category we anticipate developing and disseminating a series of technical bulletins on important aspects of accessible design. It is estimated that approximately $300,000 of discretionary funds will be used for these purposes in addition to the cost of staff involved in these activities.

Mr. Myers: I feel that research should rank exceedingly high on the list of priorities should the Board continue to operate in Fiscal Year 1983. One area in particular upon which research should be focused is the area of communication barriers. Congress gave the Board a mandate to develop policy for the removal of communication barriers. This is especially vital in order to provide communication access for 14 million deaf and hearing impaired and 1.3 million blind Americans.

The proposed rule had had provisions for telecommunication devices for the deaf and tactile warnings for the blind but these were dropped as the Federal Board members felt that not enough was known and additional research would be necessary.

There are also additional areas in the area of accessibility where research is necessary--these include fire and life safety, vertical access and surface treatment.

EXISTENCE OF THE BOARD

Senator Andrews: During preparation for this hearing the Board's staff made a distinction between the elimination of funding of the Board and the elimination of the Board. If the Board were not funded in FY 1983, under what circumstances would it continue to exist?

Mr. Reynolds: The Board is statutorily authorized to exist until September 1983. If the Board were not funded in Fiscal Year 1983, the Board would continue to be a legal entity. However, there would be no authority for the expenditure of any funds for Board purposes, including meetings of members and staff.

Ms. Grant: If the Board were not funded it would be a real message to disabled Americans that this Administration and the incumbent Congress simply do not care about accessibility. The Board became a rallying point last year for concerned advocates. If the Board were not funded disabled persons would get the message that trying to work within the system, as the public members did last year, simply does not work.

Questions Submitted by Senator Chiles

RESULTS OF ELIMINATION OF THE BOARD

Senator Chiles: If the Board were terminated, who would help insure that the Federal agencies take a uniform approach to making Federal buildings accessible and usable for the handicapped?

Mr. Reynolds: At the request of OMB a Uniform Task Force was formed last year under the leadership of GSA to develop a uniform Federal standard. A draft of this uniform standard has been developed and is awaiting final clearance by each of the standard-setting agencies prior to publication as a Notice of Proposed Rulemaking (NPRM). This action is expected in the near future. Although the Board clearly provided the impetus for this effort, the Board's termination should have no effect on the completion of this coordinated agency effort. OMB would ensure that it is carried to conclusion.

Ms. Grant: If the Board were terminated there would be nothing to ensure that the Federal agencies would continue to take a uniform approach to accessibility. The agencies are presently developing a so-called uniform standard. They are doing so only because of pressure generated by the Board's work on the Minimum Guidelines and Requirements. It is certain that without the Board providing the impetus there would not even be an attempt by them to develop a uniform standard. Furthermore, the only draft of the uniform standard we have seen departs in major respects from the Board's requirements. It is so weak that it would fall far short of providing even minimum accessibility and usability of public buildings. It is clear that the agencies have little interest in the development of effective uniform standards. Their approach to developing a uniform standard is little more than an attempt to undercut the Board's requirements and set standards so low that they would be extremely harmful to millions of disabled Americans. Without the Board there would be nothing to prevent this travesty.

Senator Chiles: Who would help insure that the minimum guidelines are complied with if the Architectural and Transportation Barriers Compliance Board is terminated?

Mr. Reynolds: The standard-setting agencies are already showing considerable initiative in developing a uniform accessibility standard. Each of those agencies would ensure that the standards are adhered to and the requirements of the law met. This is no different than the responsibility agencies demonstrate in administering other laws and requirements.

Mr. Passmore: There would be no compliance with the Minimum Guidelines and Requirements if the Board is terminated. Several Federal agencies have labored persistently for over a year to either weaken or destroy the Board's Minimum Guidelines and Requirements. Most recently, during March 1982, these same agencies provided comments on the Board's Notice of Proposed Rulemaking concerning the Guidelines. Their comments expressed views recommending either rescission or modifications which would destroy the effectiveness of the Guidelines and Requirements. During the past months these agencies have drafted a proposed uniform standard which in the last version we were permitted to see, not only seriously deviated from the Board's Minimum Guidelines and Requirements, but set forth weak, defective provisions which would fall far short of establishing even a minimal level of accessibility. We are presently engaged in a battle to prevent these Federal agencies from achieving their dire purpose. Without the Board there would be no vehicle to forstall the abandonment of meaningful accessibility in the Federal system.

VOLUNTARY COMPLIANCE

Senator Chiles: With the growing awareness of the need for accessibility, why can't we rely on voluntary compliance of the Federal agencies?

Mr. Reynolds: I feel that now that the agencies have proceeded to promulgate regulations, the enforcement mechanism ensuring compliance under the Architectural Barriers Act will be in place. We must assume that these are responsible agencies and that they will operate in a lawful and responsible manner with regard to their own regulations.

Mr. Passmore: While there is a growing awareness of the need for accessibility, voluntary compliance is still a thing of the future. If voluntary compliance were being achieved at the present time, we would receive no complaints. However, we are still receiving over 100 a year and we are still litigating 2 percent of these. The litigation is necessary in some cases because a specific agency disagrees with our interpretation of the law and the current standards. Therefore, if these cases were not litigated, those particular facilities would remain inaccessible.

Also, our experience indicates that the presence of an institutional overseer is a facilitator of voluntary compliance. The Federal agencies are aware that instances of noncompliance will not be tolerated.

Mr. Zukas: It is one thing to say that awareness of the need for accessibility has grown, as it undeniably has; it is quite another to say it has reached the level where it should be. We have taken only the first few steps in what is a long journey. Unfortunately, the coersion provided by laws, regulations and enforcement procedures will be needed for a long time to come. The clearest illustration of this is the fact that the Postal Service, in order to justify its refusal to make its leased facilities accessible, contends that the Architectural Barriers Act does not apply to such facilities. This strange interpretation of the Act is contrary to every other legal opinion that has been rendered on the subject.

Mr. Reynolds says "We must assume that these are responsible agencies and that they will operate in a lawful and responsible manner." The experience of the past year calls this assertion into serious question. After a year of trying to weaken or destroy the Minimum Guidelines the standard-setting agencies are about to publish a proposed uniform Federal standard which is in substantial nonconformance with the Minimum Guidelines. This failure to conform with the Minimum Guidelines is justified by the assertion that their status is unclear. This is whistling in the dark; despite the agencies' best efforts, the Minimum Guidelines are alive and well and the agencies' standards are required by law to conform to them. Thus it seems that even the assumption that the agencies will operate in a lawful manner is open to doubt, shocking as that may seem.

INDIVIDUALS SEEKING COMPLIANCE

Senator Chiles: If the Board didn't exist, could individuals just go to the courts to get compliance?

Mr. Reynolds: That is one possible mechanism. However, I think that the first place that one would go would be to that particular agency that is being charged with failing to comply with the accessibility standards.

I believe that before going to court, depending upon each agencies' individual procedures, one should be able to utilize mechanisms for lodging complaints which are already in place in the agencies.

Mr. Passmore: Yes, if there was no Board individuals could go to court. However, such actions are costly and time-consuming, potentially a drain on the resources of many disadvantaged persons, as well as the Federal Government. Another virtue of having the Board is that it serves to promote and maximize voluntary compliance, rather than by putting everything into an adversarial relationship. The ATBCB forum serves to provide consistent administrative resolutions and decisions, which are less costly and more efficient to attain than ad hoc judicial decisions.

In addition, even a decision in favor of the plaintiff would likely come only after the facility in question was built. The result might be a costly retrofit, perhaps costing more than the Board's entire annual budget. The Board, on the other hand, settles 98% of the complaints, often when the inaccessible feature is still a line on a blueprint, not cast in concrete.

AGENCIES PERFORMING BOARD FUNCTIONS

Senator Chiles: What would be the practical results of termination of the Board? Could its functions be performed by other agencies?

Mr. Reynolds: The practical result would be the elimination of an unnecessary layer of bureaucracy. The Federal agencies issuing standards are now moving toward a unified accessibility standard. Development of that standard has been keyed to the accessibility provisions of the private sector, most notably the American National Standard Institute. Such a standard will be enforced by the agencies as they do their business. No problems are anticipated with the implementation of the uniform accessibility standard because it is so keyed to the private sector.

Mr. Myers: If the Federal agencies are left to themselves, without an enforcing Board, there will be a reversion to the fox guarding the chicken coop situation that predated the establishment of the Board. Historically that never worked and it will not work now.

There will be less compliance, diversity of technical assistance, increased litigation (with its attendant costs), and a net of less access, making fewer disabled persons taxpayers and more taxusers. A classic example of the agencies' approach was seen this past year when GSA relocated a Social Security benefits office in North Carolina from an accessible office to an older inaccessible Federal building. The agencies' movement towards a common Federal standard must be viewed carefully. Their "standard" lacks provision for applicability to many leases, additions and alterations. This is a sure sign that access will not be provided to many facilities that are the subject of those types of design and construction activities.

It is doubtful that the Board's functions could be performed by other agencies. At present, none of the agencies has adequate staff (nor authority) to take over the compliance functions, much less the other functions of the Board, such as technical services and research projects. As a matter of fact, none of the agencies has even one person presently working full-time on enforcement of the Architectural Barriers Act. Some of the agencies, if not all, would have to duplicate the Board staff within the agency. Also, no other agency has the statutory authority to initiate administrative litigation of Barriers Act complaints or to enforce compliance orders in court. Another unique program responsibility the Board has is the oversight authority with respect to communication barriers.

It has been suggested that the Board's work could be performed by the Interagency Coordinating Council (ICC), the Department of Justice as part of its responsibilities as lead agency for Section 504 of the Rehabilitation Act, the Department of Transportation, or the agencies in general. Any changes along these lines, however, would require amendments to our authorizing legislation and ultimately weaken the government's accessibility efforts.

Transferring Board functions to the ICC is inappropriate because the ICC has no staff; it has no enforcement or regulatory authority, as it merely coordinates efforts under Title V; and, except for the Chairperson of the ATBCB, its member agencies have no expertise in physical access. The ICC has not met for over a year.

Transfer to the Department of Justice is also unrealistic. It is important to note, in this context, the similarities and differences between the Barriers Act and Section 502 on the one hand, and Section 504 of the Rehabilitation Act on the other. Section 504 provides that recipients of Federal financial assistance may not discriminate against handicapped persons or deny them the benefits of federally-assisted programs. In 1978 the law was amended to cover activities of the Federal Government itself. Government-wide guidelines provide that new construction by recipients must be accessible and that all alterations to existing facilities must be made in an accessible manner. There are no guidelines yet for the government's own activities. Only a handful of agencies have issued 504 regulations.

These regulations are inconsistent in that each incorporates by reference varying accessiblity standards. The Department of Justice is now looking to the Board as the only agency with experience in the "bricks and mortar" aspects of physical accessibility, for help in ensuring consistent and effective standards. Guidance which must come from the Justice Department on "program accessibility" requirements is different in nature from Board guidance on physical access. Physical accessibility concerns often focus on rather straightforward technical problems, numbers of facilities within a building, and the means of making particular buildings accessible. Under the 504 "program accessibility" approach, a recipient must make decisions as to how its programs or services can be made available to handicapped individuals through a wide range of options: full physical access, transfer of functions from one facility to another, alternative means of providing services, personal assistance, etc.

Obviously the Department of Transportation cannot perform Board functions which are not transit-related; transit-related activities form only a small part of the Board's mission. Nor can the agencies absorb the Board's functions at this point, for reasons mentioned earlier. In addition, past efforts to have the Board member agencies detail staff to the Board, as provided in Section 502, have been generally fruitless. The Department of Transportation is undergoing a reduction-in-force. It does not have the resources to assume ATBCB responsibilities.

BOARD'S APPEAL FOR FUNDING

Senator Chiles: I understand that Mr. Reynolds, the Acting Chairman of the Architectural and Transportation Barriers Compliance Board, has appealed the termination of the Board to Mr. Meese in the White House. What are the key arguments that are used by Mr. Reynolds in his appeal to the White House? (See Letter Attached)

Mr. Reynolds: Attached is a copy of the letter which I forwarded to Mr. Meese for the purpose of ensuring that the issue of the Board's funding would be focused on and not lost in the rush of reviewing large agency appeals. (Attachment 9) It succinctly reflects the principal elements on which the budget appeal was based.

PUBLIC MEMBER'S VIEWPOINT ON FUNDING FOR BOARD

Senator Chiles: Do the public members agree with the Administration's decision not to fund the Board?

Mr. Reynolds: I have not polled all of the public members but it is clear from the testimony of Carol Grant, David Myers, Hale Zukas, and William Passmore that they do not agree with the Administration's decision to request no funding for the Board in Fiscal Year 1983.

Mr. Zukas: I strongly disagree with the Administration's decision not to fund the Board. Without the Board there will be no pressure on the Federal agencies to develop strong standards, conduct necessary research nor to ensure compliance with the provisions of the Architectural Barriers Act.

Ms. Grant: The Administration's decision to recommend that the Board not be funded is very disturbing. The Board is the only Federal agency required by law to have disabled people appointed to decision making positions. This has proven to be invaluable in focusing the concerns of millions of disabled Americans on decisions which greatly affect their daily lives. Without the Board the Federal agencies will revert to "business as usual" which in the past resulted in weak standards and a nearly complete lack of interest in meeting the requirements of the Architectural Barriers Act. Their deficiencies in performance caused Congress to create the Board in the first place.

Mr. Myers: Some Federal agencies have proven to be the enemies of meaningful accessibility for disabled people. They have done virtually nothing for communication and hearing impaired persons. Without the Board millions of disabled people will be completely at the mercy of uncaring agencies and bureaucrats. It is certain that there would be little enforcement and we could expect no attention to be paid to the communication needs of disabled Americans. We have already witnessed the Federal agencies defeating requirements for communication accessibility and voting down proposals for needed communication research. I strongly oppose the Administration's recommendation for zero funding for the Board.

Mr. Passmore: The Board provides a powerful voice for disabled Americans in the decisions which affect their daily lives. The Board also provides a vehicle for the orderly and inexpensive resolution of accessibility complaints. Without the Board handicapped people would have no alternative but to launch expensive litigation to ensure that inaccessible public buildings have their barriers removed. It is also clear that without the Board the Federal agencies would establish weak standards and generally fail to push for accessibility--as they did before Congress recognized their failures of performance and created the Board to ensure that the Federal Government met its responsibilities.

(Attachments not shown in the transcript are on file in the office of the Senate Subcommittee on Transportation)

August 31, 1981

Mr. Allen Jackson
Chief, Education Branch
Labor, Veterans and Education
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Jackson:

Enclosed is the FY 1983 budget submission for the Architectural and Transportation Barriers Compliance Board which is being submitted at this time in order to meet the September 1 deadline for the submission by executive branch agencies subject to review. This budget material has been developed and cleared by the Planning and Budget Committee of the Board. The initial budget document had been circulated to all Board members for their comments and input which were later incorporated into this final budget package. Due to the time constraints imposed by the September 1st deadline, it was not feasible for the entire Board to consider the final budget submission. However, please be advised that individual Board members may contact you directly with additional comments and will, it is anticipated, participate in the budget hearing later this fall.

The budget request in the amount of $2.3 million--the current level of funding--will support 30 positions and the following activities:

Technical Services

Objective #1 - To provide Federal, state and local governments and private entities with the necessary assistance and guidance to enable them to meet their responsibilities for accessibility. This includes the following activity:

- the development of an outreach program to reach design professionals which will enable them to achieve their responsibilities for accessibility

Objective #2 - To identify problems and remedial actions in the areas of communication barriers. This includes the following activities:

- to conduct research within the area of communication barriers

- to provide technical assistance to state/local transit systems

Objective #3 - To develop minimum guidelines and requirements as well as consistent national accessibility standards. This includes the following activities:

- to refine 2 areas and to develop 2 areas of the minimum guidelines and requirements and to assist agencies in incorporating refined sections

- to assist the Federal agencies in the development of guidelines for special use areas

- to conduct research into those areas for which minimum guidelines and requirements have not been developed or for areas which encompass new technology

Compliance and Enforcement

Objective #1 - To ensure that accessibility and usability are achieved in Federal and federally-funded buildings and facilities subject to the Architectural Barriers Act. This includes the following activities:

- review waivers and modifications issued by other Federal agencies

- investigate and process complaints of noncompliance. This includes on-site field investigations

- litigate complaints of noncompliance when the violations cannot be resolved amicably

Objective #2 - Effective decentralized accessibility compliance systems will be in place in the Federal sector ensuring that accessibility requirements of the law are met. This includes the following activities:

- assist 4 of the 72 property holding agencies in the development and implementation of the decentralized compliance system

There are, in addition to the above-mentioned activities, other baseline activities which must be carried out. These include the following:

- Administrative - Provide support to a Board comprised of 11 public and 11 Federal members

- Public Information - Prepare annual reports to the President and Congress, respond to public inquiries and prepare technical and general information

I hope that this budget submission meets OMB's reporting requirements. If new formating requires revisions in the budget presentation, please inform me and we will make the necessary changes.

Sincerely,

Mason H. Rose V

Mason H. Rose, V
Chairperson

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

STATEMENT OF PERSONNEL RESOURCES

	Full-time equivalents (workyears)					
	1981 Actual		1982 Estimate		1983 Estimate	
	Full-time Permanent Employment	Total Employment	Full-time Permanent Employment	Total Employment	Full-time Permanent Employment	Total Employment
Architectural and Transportation Barriers Compliance Board						
1. Agency personnel resources	30	32.5	30	32.5	30	32.5
2. Supplementals and legislative program items	--	--	--	--	--	--
3. Overtime and holiday work	--	2.5	--	2.5	--	2.5
4. Youth program and/or developmental positions under the Worker-Trainee Opportunity Program	--	--	--	--	--	--
Personnel resources shown in budget schedules (Sum of lines 1 through 4)	30	35.0	30	35.0	30	35.0
Workyears subject to ceiling (Sum of lines 1 and 2)	30	32.5	30	32.5	30	32.5
Financed by allocations from Department of Public Utilities Social Services Administration	--	--	--	--	--	

DECISION UNIT OVERVIEW
Architectural and Transportation Barriers Compliance Board
95-3200-0-1-751

Long-range goal: To ensure that all federally constructed, owned, assisted or leased buildings and facilities are accessible to and usable by handicapped persons; to assist Federal, State, and local governments and private entities to enable them to meet their responsibilities for accessibility, to establish minimum guidelines and requirements for standards and to promote the development of consistent national accessibility standards; to ensure that a Federal wide accessibility compliance system will be in place in the 72 Federal property holding agencies; to ensure that public conveyances including rolling stock are readily accessible to and usable by physically handicapped persons; and to investigate and examine alternative approaches to the elimination of attitudinal, transportation and communication barriers.

Major objectives:

Technical Assistance

1. Assist 15 of the 72 Federal property holding agencies (these 15 agencies control 90% of the building space) in the development and implementation of the decentralized compliance systems (4 annually).
2. Review of accessibility standards issued by other Federal agencies for consistency with the minimum guidelines and requirements (1 annually).
3. Assist the Federal agencies in the development of guidelines for special use areas, i.e., hospitals, parks, housing, etc., and through the regulatory process issue as Board minimum guidelines.
4. Conduct research into those areas for which minimum guidelines and requirements have not been developed or for areas which encompass new technology.
5. Refine areas and develop new sections of the minimum guidelines and requirements in addition to assisting Federal agencies in incorporating refined sections.
6. Develop criteria for review of the transit systems. Provide technical assistance to state/local transit systems.
7. Conduct research within the area of communication barriers.
8. Develop a working outreach program oriented for design professionals. This would include such groups as Civil Engineers, architects, mechanical engineers, planning officials, etc.
9. Respond to public inquiries in a timely manner.
10. Develop and implement a working relationship with state and local authorities to ensure compliance with Federal and state accessibility laws (2 annually).

Compliance and Enforcement

1. Ensure that complaints received are investigated in a timely manner and when deemed necessary, citations issued and administrative procedures follow in a timely manner.
2. Review waivers and modifications issued by other Federal agencies. (12 annually).

Administrative

1. Develop legislative and administrative recommendations to the President and to the Congress for the removal of communication and transportation barriers.
2. Provide support to the Board which consists of 11 Federal and 11 public members.

Current methods of accomplishing the objectives: The Board, which was mandated to establish minimum guidelines and requirements for accessibility standards, entered into a working relationship (research effort) with the National Bureau of Standards (NBS) through which current accessibility standards were reviewed, major areas of research priorities established and a detailed research plan prepared. Board staff, after consultation with Federal and non-federal experts prepared proposed minimum guidelines, conducted legal and technical reviews and pursued the regulatory review process.

The Board published the final minimum guidelines and requirements for standards in the Federal Register in January, 1981.

Research is currently being undertaken in those areas for which guidelines have not yet been developed. The Board has in addition, developed the key elements of an accessibility system for implementation by the property holding agencies in order to ensure that accessibility concerns are addressed at the earliest stages and that federally assisted, owned, or leased facilities comply with accessibility standards.

To suport its compliance activities, when specific cases of non-compliance are found, through complaints received from the public, the Board investigates, refers complaints to the responsible agency and monitors the implementation of the agency plan to resolve the discrepancy. When complaints cannot be resolved in an amicable fashion, the Board issues a citation which can lead to specific corrective actions or suspension/withholding of Federal funds.

The Board fulfills its technical assistance mandated responsibilities to the Federal agencies through the provision of assistance with the development and implementation of the self-compliance systems, through national training seminars and workshops achieved by contractural services; and through the development and dissemination of informational and technical tools and articles, and through numerous exhibits at national meetings and conventions. The Board staff currently serves as the coordinator for all necessary activities for the conduct and follow-up of the 22 member Board meetings and the five (5) committee meetings.

Alternative Methods:

1. Enter into a series of contracts to provide technical assistance. These contracts would be based on specific categories of buildings/facilities or various geographic locations. This approach, which would require constant monitoring, would not provide for a significant degree of quality control in that the Board would not be able to ensure the consistency and uniformity of interpretation. The provision of technical assistance is an on-going and continuous function for which it is inappropriate to use contractor assistance. In addition, the cost of this approach would be twice as much than using in-house staff.

2. Utilize other Federal agency staff via the detail mechanism for a 90-180 day period, under the direction of the ATBCB Executive Director to provide technical assistance. By law, all agencies must provide technical assistance within their respective agencies and to their grantees. It was never the intent of Congress that the Board be the sole provider of technical assistance. It is necessary for the Board to serve as the focal point in order that it may maintain its role of "watchdog" as mandated. Without this role, there would be no quality control and no way to ensure that the guidance provided by the Federal agencies is correct or consistent in its interpretation.

3. Certify private firms or individuals to provide technical assistance in barrier free design. This approach would also result in loss of quality control. This practice which could affect the private competitive market is questionable as it could result in an adverse effect upon the compliance operation.

Accomplishments:

Technical Assistance

1. Eight (8) agencies were assisted in the development of a proposed decentralized compliance system.
2. The minimum guidelines and requirements for standards were developed and issued.
3. 17,000 inquiries, both of a general and technical nature, were responded to.
4. Data for standards regarding doors, opening force, hardware, etc., is being tested through the University of Arizona.
5. Recommendations for research priorities in communication barriers was completed by the National Bureau of Standards.
6. 22 National technical workshops for the regions and the 50 states were conducted.
7. 8 pages of narrative and illustrations regarding barrier free design was published in the McGraw Hill Sweet's catalogue.
8. A general policy on transportation was developed.
9. One Federal agency's accessibility standards were reviewed.
10. Phase I of the cost of implementing the minimum guidelines and requirements for accessible design was completed.
11. A regulatory evaluation through the rulemaking process of the minimum guidelines and requirements was performed.

Compliance and Enforcement

1. 150 complaints received from the public were processed.
2. 3 major citations were issued.
3. 15 field investigations of complaints of non-compliance were conducted.
4. 12 modifications and waivers were reviewed.

MINIMUM LEVEL DECISION PACKAGE
Architectural and Transportation Barriers Compliance Board
95-3200-0-1-751

Activity:

1. Assist 4 agencies in the development and implementation of the decentralized compliance system.
2. Process and respond to 150 complaints.
3. Review 12 requests for waivers and modifications issued by Federal agencies.
4. Assist 2 agencies in developing subpart E of the Minimum Guidelines and Requirements (Special Building and Facility Types).
5. Develop criteria for review of transit systems.
6. Prepare legislative and administrative recommendations.
7. Respond to 17,500 public inquiries pertaining to general, and technical information.
8. Submit annual reports to the President and to the Congress.
9. Field investigate 15 complaints of non-compliance. It is estimated that 3 of these will result in litigation by the issuance of citations.
10. Provide support to the Board which is comprised of 11 Federal and 11 public members.
11. Initiate research in the area of communication barriers.

				Planning Estimates		
Resource requirements:	1981	1982	1983	1984	1985	1986
Budget Authority ($000)						
In-House	1,500	1,800	1,500			
Contracts	800	500	--	--	--	--
Total Budget Authority	2,300	2,300	1,500	1,500	1,500	1,500
Outlays ($000)	1,748	1,748	1,140	1,140	1,140	1,140
Full-time equivalent employment (workyears)						
Full-time permanent	30	30	30			
Other	2.5	2.5	2.5			
Total	32.5	32.5	32.5			

Short-term objectives: Continue in providing assistance to the 72 Federal property holding agencies for the development and implementation of decentralized accessibility compliance systems. Develop criteria for the review of transit systems. Provide assistance to agencies in the development of guidelines for special use areas and through the regulatory process issue as Board minimum guidelines. Initiate research within the area of communication barriers.

Output/Workload Measures:

	1981	1982	1983
1. Process complaints of non-compliance received from public.	150	150	150
2. Assist Federal agencies in the development of their decentralized compliance systems.	8	4	4
3. Respond to inquiries of both a general and a technical nature.	17,000	17,500	17,500
4. Litigate complaints of non-compliance.	3	3	3
5. Field investigate complaints of non-compliance.	15	15	15
6. Review waivers and modifications.	12	12	12

Impact on Major Objectives:

Technical Assistance - The provision of technical assistance to any public or private entity affected by Title V is one of the major responsibilities assigned to the Board by the 1978 amendments. This is a major on-going effort which requires specially trained personnel. At the minimum level of funding, the provision of technical assistance will be extremely limited with no provision at all to private entities and exceptionally limited contact with state and local officials. In the areas of transportation and rolling stock, an additional major new responsibility, the minimum level of funding will result in the development of criteria only for future review of transit systems. This level will preclude the provision of technical assistance to state/local transit systems. In the area of minimum guidelines and requirements for standards, minimal research will be undertaken in the area of communication barriers; and only two agencies will be assisted in the development of Subpart E of the minimum guidelines and requirements, Special Use Areas. This level of funding will not permit continued research efforts for the further development of minimum guidelines and requirements; refining areas or developing new sections of the minimum guidelines and requirements; nor assisting Federal agencies to incorporate these refined sections; no Federal agency accessibility standards will be reviewed.

At the minimum level, 25% of the 15 major Federal property holding agencies will be assisted in the development of self-compliance systems.

Compliance and Enforcement

These activities relate to the pre-eminent mission of the Board which is to achieve compliance with Public Law 90-480. At this minimum level, field investigations of complaints will be minimal (10%); 100% of the requests for waivers and modifications will be reviewed.

CURRENT LEVEL DECISION PACKAGE
Architectural and Transportation Barriers Compliance Board
95-3200-0-1-751

Activity:

In addition to the activities contemplated in Package 1, the Board will conduct the following activities:

1. Provide technical assistance to state/local transit systems.
2. Review 1 Federal agency's accessibility standards.
3. Conduct research into areas for which no guidelines have been developed.
4. Develop an outreach program oriented for design professionals.
5. Develop and implement a working relationship with 2 state and local authorities.
6. Refine 2 areas and develop 2 new sections of the minimum guidelines and requirements. Assist 4 Federal agencies in incorporating refined sections.

			1983		Planning Estimates		
Resource Requirements:	1981	1982	This Package	Cumulative Total	1984	1985	1986
Budget Authority ($000)							
In-House	1,500	1,800	0	2,000			
Contracts	800	500	0	300			
Total Budget Authority	2,300	2,300	0	2,300	2,300	2,300	2,300
Outlays	1,748	1,748	0	1,748	1,748	1,748	1,748
Full-time equivalent employment (workyears)							
Full-time permanent	30	30	0	30			
Other	2.5	2.5	0	2.5			
Total	32.5	32.5	0	32.5			

Short-term Objectives: Expand technical assistance efforts to include design professionals. Expand research efforts into the area of communication barriers. In addition, conduct research into those areas for which guidelines and requirements have not been developed. In addition, refine 2 areas and develop 2 new sections of the minimum guidelines and requirements. Assist 4 agencies in incorporating these refined sections. Provide technical assistance to state/local transit systems. Implement a working relationship with 2 state and local authorities.

Output/Workload Measures:	1981	1982	1983 This Package	1983 Cumulative Total
1. Process complaints of non-compliance received from public.	150	150	0	150
2. Assist Federal agencies in the development of their decentralized compliance systems.	8	4	0	4
3. Respond to inquiries of both a general and a technical nature.	17,000	17,500	0	17,500
4. Litigate complaints of non-compliance.	3	3	0	3
5. Field investigate complaints of non-compliance.	15	15	0	15
6. Review waivers and modifications.	12	12	0	12

Impact on Major Objectives:

Technical Assistance - This level of activity will permit the Board to develop an outreach program to reach design professionals which will enable them to achieve their responsibilities for accessibility. However, other efforts to expand the outreach program will be precluded at this level of activity. Research within the area of minimum guidelines will be conducted at this level of activity; research within the area of communication barriers will be expanded. The current level of activity in the area of transportation will result in the provision of technical assistance to state/local transit systems. In addition, this level will permit the Board to refine 2 areas and develop 2 areas of the minimum guidelines and requirements in addition to assisting 4 agencies in incorporating refined sections.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Relationship of Decision Units to Account Structure
(in thousands of dollars)

Decision Units by Bureau and Account	1983 Estimate BA	1983 Estimate Outlays
Architectural and Transportation Barriers Compliance Board (95-3200-0-1-751)	2,300	1,748
Total, Architectural and Transportation Barriers Compliance Board	2,300	1,748

REPORT ON OBLIGATIONS FOR CONSULTING SERVICES AND RELATED SERVICES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Agency contact: J. Satine
Phone: 245-1801

Account Identification Number	Account Title	Type	Obligations (in thousands) 1981	1982	1983	Workdays (Personnel Appointments Only) 1981	1982	1983
95-3200-0-1-751	Salaries and Expenses	P	18	18	18	115	115	115
95-3200-0-1-751	Salaries and Expenses	C	18	18	18	---	---	---
	Total		36	36	36	115	115	115

TOTALS

1. Consulting Services

Contractual services	18	18	18	---	---	---
Personnel appointments	18	18	18	115	115	115
Total - all types	36	36	36	115	115	115

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
95-3200-0-1-751
CONSULTANT JUSTIFICATION

Media consultant:

A consultant with background and experience working with the national media is essential to demonstrate the efforts of the Federal Government to obtain uniformity in accessibility requirements by collaboration with code people and technical people in the 50 states and to facilitate a broader understanding of the new minimum guidelines and requirements. This activity supports one of the Board's major objectives which is to provide Federal, state and local governments and private entities with the necessary assistance and guidance to enable them to meet their responsibilities for accessibility.

An alternative would be to hire an individual who possesses the requisite background and experience. This activity, however, is not full-time and this person would be used on rare occasions.

Expert Witnesses:

Expert witnesses will support three cases going to hearing. These individuals are expert technical (architects/engineers) and medical (rehabilitation medicine and psychological) witnesses to support the prosecution of compliance hearings. These witnesses are used to help prove the existence of barriers and to establish the appropriate remedies.

An alternative would be to hire individuals who possess the necessary expertise. However, this is not a full-time activity.

ATTACHMENT 5

12/81

Board Member lists and Biographies

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (A&TBCB)

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*Chairperson.

BIOGRAPHICAL SKETCHES

CHARLES R. HAUSER

Charles R Hauser, president of a design consulting firm specializing in architectural signing for physically handicapped persons, especially those with visual and hearing impairments, was among three persons appointed recently to the Architectural and Transportation Barriers Compliance Board. He succeeds Walter Richter of Austin, Texas.

Hauser, 40, whose appointment expires Dec. 3, 1984, has worked as a graphics designer for 17 years. His firm, Hauser Associates, which has offices in Atlanta and Houston, developed the signing system for the Metropolitan Atlanta Rapid Transit Authority (MARTA).

Hauser, a 1964 graduate of the Rhode Island School of Design, has taught at Harvard and worked as a designer in Boston and Cambridge. He is on the board of directors of the Society of Environmental Graphic Designers, a professional organization for designers involved in developing sign systems.

Hauser's firm serves as a consultant to the National Library Service for the Blind and Physically Handicapped, providers of braille, large print and recorded materials for blind and physically handicapped persons. Hauser recently conducted a workshop at an international conference on barrier-free design at the United Nations in New York City.

A life-long Republican, Hauser is the father of four children.

SCOTT MOORE DUNCAN

Duncan, 30, is president of Scott Duncan and Co., a public relations firm involved in fund raising for nonprofit organizations. Duncan also is a cofounder of Independent Life Styles, Inc., a nonprofit organization that develops housing for disabled persons.

A native of Harlingen, Texas, Duncan is a 1978 graduate of the University of Houston where he majored in public relations and political science. During his senior year he served an internship with Texas Eastern Transmission Corp.

Duncan was the most outstanding cadet in the class of 1970 at the Marine Military Academy in Harlingen and he received the school's distinguished alumni award in 1980.

Duncan has been a quadraplegic since 1968 from injuries sustained in an auto accident. He holds real estate and private pilot licenses. He succeeds Patrick G. Casey of Taylor, Mich.

MARY ALICE FORD

Ms. Ford, a state representative from Oregon's eighth district, to which she was appointed in 1978 and elected in 1980, is a native of Los Angeles. She was educated in the Pasadena public schools and earned a B.A. degree in elementary education in 1956 from Stanford University at Palo Alto, Calif. At Stanford she minored in psychology with emphasis on teaching emotionally handicapped children. She taught in the Oregon public schools.

Ms. Ford, 46, currently serves as vice chairperson of three legislative committees in the Oregon House of Representatives, including transportation, aging and minority affairs, and on the subcommittee on mental health. She is also a member of the housing committee.

Ms. Ford, who succeeds David Cruz Velez of San Juan, Puerto Rico, is a member of the Oregon Republican executive committee, Women's Political Caucus, and Council on Aging.

She has three children and resides in Portland.

CAROL A. GRANT

Carol A. Grant is a rehabilitation counselor with the North Carolina Division of Vocational Rehabilitation. She helps rehabilitate disabled people receiving Social Security Disability Insurance and Supplemental Security Income.

Through volunteer speaking engagements with civic and religious organizations and public agencies, Grant has helped meet specific needs of handicapped individuals, including jobs, emergency funds and personal interests.

Grant serves as a member of the Mayor's Committee on the Handicapped.

Active in rehabilitation associations at state and national levels, Grant served as an intern at the Medical University of South Carolina Hospital in Charleston, where she counseled newly disabled people.

She also conducted an extensive survey of architectural barriers of 50 establishments in Charleston. This report served as a guide for removing architectural barriers in the city. Grant also has worked as a telephone counselor on a statewide information and referral hotline.

As a former member of the North Carolina Governor's Study Committee on Architectural Barriers, she helped conduct an extensive study on architectural barriers and made recommendations to eliminate them. The report was developed into the Handicapped Section of the North Carolina Building Code, recognized as one of the most innovative and stringent codes in the nation.

Grant received her B.A. degree from Meredith College in Raleigh, N.C. She received her M.S. degree in rehabilitation counseling from East Carolina University at Greenville, N.C.

On Dec. 4, President Carter appointed Grant, who uses leg braces and occasionally a wheelchair because of abnormally short limbs, to a three year term on the federal Architectural and Transportation Barriers Compliance Board.

KAY F. NEIL

Mrs. Kay L. Neil is a retired businesswoman from Omaha, Neb., and former chairman of the Omaha Mayor's Committee on the Handicapped. The Committee was responsible for handicapped parking permits and ordinance for uniform curb cuts. The Committee held workshops on architectural barriers and assisted in the current specialized city-wide transportation system.

She also served as chairman of the Nebraska Governor's Committee on the Employment of the Handicapped. The Committee was responsible for architectural barriers assistance, statewide workshops, various awards for outstanding individuals involved with handicapped persons, and the development of a hotline for the handicapped. The Committee also developed the State Parking Permit Law.

Since 1976, Neil has served as executive director for the Employment Advisory Council for the Handicapped. She coordinates workshops for staff and supervisors in handicapped employment and training to work together for better placement, opportunity and education. The Council holds an annual awards luncheon to recognize employers who hire handicapped persons and businessmen who make their facilities accessible.

Neil is a member of the Statewide Health Coordinating Council and chaired its Systems Development Committee. The Council authorizes health systems agencies, approves state program money expenditures and authorizes and oversees the State Health Plan.

She has been active in the transportation area as secretary and member of the Transit Advisory Committee to Metro Area Transit. She also serves as a special advisor to the board of directors on matters regarding elderly and handicapped citizens. She has been a member of the board of directors for the National Council for the Transportation Disadvantaged, and she was the conference coordinator for the Iowa-Nebraska Conference on the Transportation Disadvantaged.

Neil has received the Sertoma Service to Mankind Award and the Iowa Vocational Rehabilitation Representative Woman award. She is also a former United Way Volunteer of the Year.

On Dec. 4, President Carter appointed Neil, who uses crutches, leg braces and occassionally a wheelchair because of polio, to a three-year term on the federal Architectural and Transportation Barriers Compliance Board.

WILLIAM R. RALLS

William R. Ralls is an attorney and partner with the Lansing, Mich., law firm of Doyle, Carruthers, Hess and Ralls, P.C.

Ralls, a former Democratic candidate for governor of Michigan, served six years as commissioner for the Michigan Public Service Commission. While working for the law firm of Miller, Canfield, Paddock and Stone, Ralls took a leave of absence to work as an executive assistant to State Senate Democratic leader Sander Levin.

A former chairman of the Michigan Rail Action Association, Ralls has published articles on railroads and the need for railroad improvements.

He wrote "Bail in the United States, Imprisonment of the Poor" for the Michigan State Bar Journal.

Ralls is affiliated with the Michigan State and American Bar Associations, and has been a member of the National Drinking Water Advisory Council of the Environmental Protection Agency, the Water and Sewage Committee of the National Association of Regulatory Utility Commissioners, CATV Advisory Council for the Federal Communication Commission and the President's Council on Science and Technology.

He was graduated Magna Cum Laude with a B.A. from Yale University and earned a J.D. from Harvard.

On Dec. 4, President Carter appointed Ralls, who is able-bodied, to a one-year term on the federal Architectural and Transportation Barriers Compliance Board.

David W. Myers
Board Member

David W. Myers of Baton Rouge, La., coordinator of that state's services to deaf and hearing-impaired citizens, is the newest public member of the Board. Myers joins 10 other citizen members on the Board.

Myers, 44, deafened by spinal meningitis at age eight, was appointed by President Carter Jan. 18. One of nine public members who is disabled, Myers' term expires Dec. 3, 1983.

A native of Winston-Salem, N.C., Myers began his career in vocational rehabilitation in Raleigh in 1964, and he has devoted his professional life to rehabilitating deaf and hearing-impaired persons in North Carolina, Indiana, Ohio and Louisiana. Myers joined Louisiana's rehabilitation services in 1970, starting as a counselor in New Orleans and moving to Baton Rouge in 1974 as a program supervisor.

The new Board member earned a bachelor's degree at Gallaudet College in Washington, D.C., in 1961 and a master's degree at California State University at Northridge in 1969. He has also studied at the University of North Carolina at Chapel Hill and San Francisco State College.

HALE J. ZUKAS

Hale J. Zukas is the coordinator of the department of community affairs for Berkeley, Calif., an agency that works to change the physical and social environment to meet the needs of disabled residents. The department has been active in efforts to eliminate architectural and transportation barriers and acts as an adovcate for disabled persons.

Zukas has worked on curb ramp construction programs, advised groups on barrier-free design, and served as a consultant to the Bay Area Rapid Transit District (BART). In addition, Zukas has testified at numerous administrative and legislative hearings on various issues concerning disabled people.

He is co-founder of Berkeley's Center for Independent Living, an organization working with disabled residents to meet their needs.

Zukas is affiliated with various organizational and community activities relating to the handicapped. For several years, he has served on the Center's board of directors.

He has published Why Aren't Disabled People Using BART?, an analysis of the low transit ridership by disabled people, and he co-authored The Impact of BART on the Physically Disabled, a survey of disabled people's travel behavior and BART's effect on that behavior.

Zukas received a B.A. in mathematics from the University of California where he was an honors graduate.

On Dec. 4, President Carter appointed Zukas, who has severe cerebral palsy, to a one-year term on the federal Architectural and Transportation Barriers Compliance Board.

WILLIAM A. PASSMORE

William A. Passmore is a job developer with the Federal Programs Office in East Chicago, Ind., where he has earned national recognition for placing and counseling disabled individuals.

Passmore's career helping others started on a purely personal basis. He lost both legs through a football accident and during his long convalescence at East Chicago's St. Catherine's Hospital, he began visiting patients on Sundays. This experience led him to visit not only on Sundays but during his lunch hours as well. St. Catherine named him its 1967 Visitor of the Year.

He began doing volunteer work for handicapped and disadvantaged persons. Later, he became interested in rehabilitation and employment preparation programs at the Indiana State Prison in Michigan City and began studying penology. He was a driving force in organizing Convicts Anonymous and Convicts Unlimited. The former is a group therapy program within the prison while the latter helps ex-offenders find jobs.

Passmore served as an administrative assistant at Indiana University's Northwest Campus Special Services Department in Gary. He continues to work on a volunteer basis, recruiting indigent students for Purdue University and football prospects for the University of Wisconsin.

Passmore is a member of the President's Committee on Employment of the Handicapped and on the board of directors for Emergency Referral Services, Tradewinds Rehabilitation Center for Physically Handicapped Children and Adults, East Chicago Salvation Army. He is on the executive board of Tri City Comprehensive Mental Health Center. He also is a former member of the board of directors of the National Easter Seal Society.

Passmore has received many awards, including the President's Award for Meritorious Work for Exchange Club and the Jaycee Chamber International's Senator award for excellence and achievement. He was named Handicapped American and Hoosier of 1968.

Passmore was graduated from the East Chicago Business College and attended Indiana University in Gary and Calumet College at Hammond, Ind.

On Dec. 4, President Carter appointed Passmore, a double amputee and wheelchair user, to a three-year term on the federal Architectural and Transportation Barriers Compliance Board.

PAUL MULDAWER

Paul Muldawer is a nationally known architect and urban designer. He designed the 1977 presidential inauguration reviewing stand and parade facilities which for the first time provided access to handicapped persons.

Muldawer was the first architect appointed to the National Advisory Committee on an Accessible Environment of the federal Architectural and Transportation Barriers Compliance Board. He was vice president of the advisory board of the National Trust for Historic Preservation in Washington, D.C., and directed and coordinated the work of advisors from 50 states.

Muldawer focuses on solar architecture and urban design, and he has won three national U.S. Department of Housing and Urban Development (HUD) awards in this area. Two of these awards were in the rapid transit area and the third in historic preservation. Muldawer received a HUD regional Cycle Five award for a solar home.

Muldawer has worked on numerous urban design projects, including the urban renewal study in Savannah, Ga. This study analyzed the historical fabric of the city and recommended a criteria for building new architecture in historic areas.

He earned a B.A. degree in architecture from the University of Florida and received six architectural competition awards. He received a Thalheimer-Weitz Fellowship at the University of Pennsylvania, where he studied under Louis Kahn and Dean G. Holmes Perkins and earned an M.A. degree in architecture.

Muldawer believes in linking energy efficiency and barrier free design and sees both requiring new levels of consciousness and new standards as integral parts of the design process.

On Dec. 4, President Carter appointed Muldawer, who is able-bodied, to a one-year term on the federal Architectural and Transportation Barriers Compliance Board.

WILLIAM BRADFORD REYNOLDS

William Bradford Reynolds became the Assistant Attorney General in charge of the Civil Rights Division on July 27, 1981, the ninth person to hold the post.

President Reagan nominated Reynolds for the position on June 11, and he was confirmed by the Senate on July 23.

Reynolds was born on June 21, 1942, in Bridgeport, Connecticut. He attended Phillips Academy, Andover, Massachusetts, and received his B.A. degree in 1964 from Yale University, where he was on the Dean's List.

Reynolds graduated second in his class from the Vanderbilt University School of Law in 1967, receiving his J.D. degree. He was editor-in-chief of the Vanderbilt Law Review and was selected for Order of the Coif.

During the summer of 1966, Reynolds worked as an assistant to the United States Attorney in Nashville, Tennessee. Following graduation from law school, he joined the New York City law firm of Sullivan & Cromwell and was involved principally in general commercial litigation matters.

From April, 1970, to June, 1973, Reynolds was an assistant to Solicitor General Erwin N. Griswold, presenting 11 oral arguments before the Supreme Court and writing some 40 Supreme Court briefs. He worked on a number of important civil rights cases.

From 1973 until his appointment as Assistant Attorney General, Reynolds was a litigation partner in Shaw, Pittman, Potts & Trowbridge, a Washington, D.C., law firm. He had responsibility for civil litigation matters, including extensive state and federal court practice and involvement in adversary administrative proceedings before governmental agencies.

He is a member of the District of Columbia Bar, the New York State Bar, the Supreme Court Bar, the American Bar Association, and the District of Columbia Bar Association.

Reynolds is married to the former Lynn Morgan and they have one son and three daughters. The family lives in Potomac, Maryland.

The Civil Rights Division, which Reynolds heads, is the federal government's chief agency for enforcing civil rights laws in the courts. The Division has some 170 attorneys and 243 other employees. Its annual budget is more than $16.8 million.

Created by the Civil Rights Act of 1957, the Division enforces federal laws and presidential executive orders that prohibit discrimination because of race, national origin, religion, sex and age in employment, education, housing, credit, voting, public accommodations and facilities, and federally assisted programs.

The Division also enforces federal criminal laws that prohibit violations of any person's civil rights and acts of interference with the exercise of other federally protected rights.

In 1980, the Division was given the additional responsibility of enforcing a law designed to protect the rights of persons in state and mental and penal institutions to humane living conditions and other constitutional protections.

ROGER P. CRAIG

Roger P. Craig was appointed Assistant Postmaster **General, Real Estate** and Buildings Department on May 6, 1980. **He had served** since 1972 as Deputy General Counsel for the Postal Service.

In his present position, he is responsible for one of the government's largest civilian construction programs.

Mr. Craig entered the Postal Service in 1970 as Special Assistant to the General Counsel and a year later was named Associate General Counsel in the Postal Service's Law Department.

Before joining the Postal Service, Mr. Craig served with the United States Bureau of the Budget, with responsibilities involving federal housing programs. Earlier, he was a member of the staff of Walter Washington, Mayor of Washington, D. C.

Mr. Craig received a B.A. degree magna cum laude in 1962 from Yale University, and a L.L.B. degree magna cum laude from Harvard Law School in 1965. At Harvard, he served on the staff of the Harvard Law Review.

He is a member of the bars in New York and in the District of Columbia.

Mr. Craig was born in Evanston, Illinois on December 31, 1940. He is married to the former Ann Blackford Rea, of Marion, Ohio. They are the parents of two children and reside in the District of Columbia.

Ray Kline Deputy Administrator

Ray Kline, 53, was named deputy administrator of the U.S. General Services Administration on August 6, 1979.

As deputy administrator, Kline participates with Administrator R. G. Freeman III in managing GSA, which procures $5 billion in goods and services annually to meet the common needs of the federal government. The agency is the government landlord and real estate agent, purchasing agent, supplier of transportation, telecommunications and computer services, records-keeper and office-manager, and recycler or disposer of things left over or worn out.

Kline joined GSA from the National Aeronautics and Space Administration (NASA) headquarters in Washington, D.C., where he had been associate administrator for management operations since 1977. In that position he was responsible for management of operations at the 10 NASA field centers.

He joined NASA in 1962 as a principal member of the executive staff of Dr. Wernher von Braun at Marshall Space Flight Center in Huntsville, Ala., where he held several top management positions before coming to Washington in 1968. Among other positions held at NASA in Washington, Kline served as assistant administrator for institutional management for two years.

Before joining NASA, he held management positions with the Army Missile Command in Huntsville for 1958 to 1962 and with the Navy Department in Washington from 1952 to 1955. He was a part-time instructor of political science at the University of Alabama (Huntsville) from 1958 to 1963.

During World War II, Kline served in the European Theater of Operations and after the war served with the First Infantry Division at the Nuremberg Trials. He also served during the Korean War.

A native of Lebanon, Pa., Kline received a bachelor's degree in political science from Lebanon Valley College, an LL.B. from George Washington University and has done graduate work at George Washington University's School of Government. He is a member of the Federal Bar.

Kline received the Distinguished Service Medal, NASA's highest award, for "his dynamic leadership, outstanding managerial competance and exceptional personal contributions to the nation's space activities." He holds the NASA Exceptional Service Medal as well as various honors and awards from the Department of the Army and Navy.

He and his wife reside in Rockville, Md., with their two children.

JUAN A. del REAL

Juan A. del Real was sworn in as general counsel of the Department of Health and Human Services Sept. 17, 1981. He was nominated by President Reagan April 17, 1981, and confirmed by the Senate July 30, 1981.

Since April 1980 del Real had been assistant general counsel for the department's Health Care Financing and Human Development Services divisions. As general counsel he provides legal advice to the Secretary of HHS and other officials in the department, directing the activities of approximately 350 lawyers.

Del Real was born in Havana, Cuba, Nov. 4, 1939. He has resided in the United States since Nov. 4, 1960, and became a citizen Jan. 5, 1967.

In June 1959 del Real completed a three-year pre-law program with honors at Tulane University in New Orleans. Between June 1959 and October 1960, he studied law at Havana University Law School, leaving due to political conditions. He received his J.D. degree cum laude in 1966 from the St. Louis University Law School.

Before April 1980 when he joined the Department of Health, Education, and Welfare (which became HHS in May 1980), del Real since 1971 had been a partner in charge of the litigation department at Hill, Christopher and Phillips in Washington, D.C. Between 1968 and 1971, he was with Surrey, Karasik, Greene and Hill, a Washington law firm. He served as special assistant to the president of Central-Aguirre Sugar Company in San Juan, Puerto Rico, from 1967 to 1968. From 1966 to 1967 he was an associate with Surrey, Karasik, Gould and Greene in Washington.

Del Real is a member of the American Bar Association, the District of Columbia Bar Association and the Missouri Bar Association.

He is married to the former Ellen Doud Moore and they have three children. The family resides in Potomac, Md.

Sept. 17, 1981

T. TIMOTHY RYAN, JR.

T. Timothy Ryan, Jr., a resident of Arlington, Virginia, is the Solicitor of Labor, U.S. Department of Labor. He was appointed to this position by President Reagan and on March 12, 1981 this appointment was confirmed by the Senate.

Prior to his appointment Mr. Ryan was with the Washington, D. C. law firm of Pierson, Ball & Dowd, practicing management labor and employment relations law. He is a graduate of Villanova University (A.B., 1967) and American University Law School (J.D., 1973). He is married to Judith Rush Ryan and has a young daughter, Kathryn.

Mr. Ryan was a Fellow with the Urban Transportation Institute in 1973. He was formerly an attorney-advisor to Board Member Ralph Kennedy of the National Labor Relations Board. Thereafter, he was associated with the Baltimore, Maryland law firm of Venable, Baetjer and Howard. In 1976 he served as Deputy General Counsel of The President Ford Committee. Mr. Ryan is an Adjunct Professor of Law at the Georgetown University Law Center, a Board Member of the Overseas Private Investment Corporation, and a Council Member of the Administrative Conference of the United States.

Mr. Ryan is admitted to practice law before the United States Supreme Court, the District of Columbia Court of Appeals, the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia and the Seventh Circuit Court of Appeals. He is a member of the Labor Law Section of the American and Federal Bar Association as well as the Bar Association of the District of Columbia. In 1981 Mr. Ryan was named to Who's Who in America.

JUDITH T. CONNOR

Judith T. Connor is the Assistant Secretary of Transportation for Policy and International Affairs at the U. S. Department of Transportation.

She returned to government from a position as Director of International Affairs at Pan American World Airways in New York City.

Previously, Mrs. Connor served at the Department of Transportation in the Ford Administration as Assistant Secretary of Transportation for Environment, Safety and Consumer Affairs. She held that post from October 1975 to January 1977, after being promoted from Acting Administrator for DOT's Urban Mass Transportation Administration. She also had been Special Assistant to the UMTA Administrator, beginning in 1973.

Mrs. Connor was employed from 1971 to 1973 at the U. S. Department of Commerce in Washington, where she was on the Secretary's Policy and Evaluation Staff and later held the position of Director of the Domestic Business Policy Division. She also was employed briefly in 1971 by the U. S. Office of Economic Opportunity.

Before entering government, Mrs. Connor worked for Trans World Airlines in New York City in 1968 to 1969 and for the Pacific Telephone Company in San Francisco from 1965 to 1968.

A U. S. citizen, Mrs. Connor was born in Toronto, Ontario. She received her bachelor's degree from Wellesley College and her master's degree in business administration from Columbia University.

She is married to James E. Connor. The couple's permanent residence is in Pennsylvania.

J. ROBINSON WEST

J. Robinson West, 35, is the Assistant Secretary of the Interior for Policy, Budget and Administration. Assisted by a staff of 790, Mr. West is responsible for reviewing all programs and policies of the Department, preparing its budget ($6.076 Billion for FY 1983) and administering over 75,000 employees and 1,800 facilities. He is also responsible for coordinating the Outer Continental Shelf (OCS) leasing program, which generated over $10 Billion in 1981. In his current capacity, Mr. West is Chairman of the Cabinet Council Working Group on OCS Revenue Sharing and a member of the Working Groups on Foreign Investment and Trade Policy. He is also a member of the Minerals Management Board, which oversees the Minerals Management Service.

Mr. West has had experience in the public and private sector. From 1977 to 1980, he was a First Vice President of Blyth Eastman Dillon & Co., investment bankers. His Government service includes Deputy Assistant Secretary of Defense for International Economic Affairs (1976-1977), Assistant to the Secretary and Deputy Secretary of Defense (1976) and as a member of the White House Staff (1974-1976). He received the Secretary of Defense Medal for Outstanding Public Service in 1977.

Mr. West has served also on several Government Commissions, including the National Advisory Committee on Handicapped Children, the National Advisory Committee on Oceans and Atmosphere, and the Industry Policy Advisory Committee on Multi-lateral Trade Negotiations.

A resident of Pennsylvania, Mr. West is a graduate of the University of North Carolina and the Temple University Law School. He has been active in his community, having served as a trustee of the United Fund of Philadelphia and the Health and Welfare Council of Chester County. He was elected to Chester County Government Study Commission, and was selected One of the Ten Outstanding Young Men in Pennsylvania in 1974. Mr. West is a member of the Brandywine Conservancy, the Council on Foreign Relations, and the International Institute on Strategic Studies (London).

ROBERT P. NIMMO

Robert P. Nimmo, Administrator of Veterans Affairs since July 15, 1981, was born in Balboa, Cal., February 5, 1922. He graduated from Newport Harbor High at Newport Beach, Cal., in 1940, and entered California Polytechnic College at San Luis Obispo that fall. He majored in animal husbandry there until he entered the Army Air Corps in 1943.

From 1943 to 1946, Nimmo served as a bomber pilot with the Air Force flying B-24s against Germany from his base in England prior to, during, and after the June 6, 1944, D-Day invasion of Europe.

Following his release from active duty in 1946, Nimmo held various positions with the California Military Department until the outbreak of the Korean War. He was commander of the 161st Ordnance Depot Company and his was the first National Guard unit alerted for induction during that conflict.

The native Californian returned to the United States in 1952 and engaged in livestock raising and grain farming in Oregon until 1955. He returned to his native state in 1955 to serve the California Military Department for his last of three military tours. During that tour, he graduated from the Army Supply Management School in 1962, and the Army Command and General Staff College in 1964.

Nimmo has been involved in politics since 1968 when he became a member and treasurer of the San Luis Obispo County Republican Central Committee; from 1972 to 1980, he was a member of the California Republican State Central Committee.

In 1969, Nimmo was appointed by then California Governor Ronald Reagan to serve as the United States Property and Fiscal Officer for the state. He was elected to the California State Assembly in 1972 where he served two terms prior to being elected to the California State Senate in 1976. During his four years in the State Senate, Nimmo served on the Finance, Agriculture, Revenue and Taxation and Rules Committees.

Nimmo was a Reagan delegate to the Republican National Convention in 1980, and on April 30, 1981, he was nominated by President Reagan to head the Veterans Administration. He was confirmed by Congress on July 10, 1981, following July 9 hearings before the Senate Veterans Affairs Committee.

Nimmo is married to the former Patricia Stone and is the proud father of three daughters. The Nimmos still maintain a California residence at Atascadero.

-- JEAN TUFTS --

Jean Tufts, immediate past president of the National School Boards Association (NSBA), has been selected by President Reagan as Assistant Secretary for Special Education and Rehabilitative Services at the U.S. Department of Education.

Her nomination, announced April 9, was confirmed by the Senate October 26, 1981.

Active in the NSBA since 1970 as leader and a member of that body's board, Tufts was a member of the New Hampshire State Board of Education from 1970-75. She also has been a consultant with the Preschool Programs for the Handicapped, New Hampshire State Department of Education.

During the seventies, Tufts served as executive director of The Rehabilitation Center, Portsmouth, N.H., and the Greater Manchester Child Care Association. She also was a senior project officer with the New England Program in Teacher Education and principal of the Rockingham School for Special Children from 1961 to 1970.

Her other activities include service on national, state and local service bodies, including the Council for Exceptional Children, and the New Hampshire Governor's Task Force on Education, Special Education. She served as a delegate on the National Conference on Children and Youth in 1972-73.

A graduate of Boston University, she earned her bachelor of science degree in 1945 and her master of education in 1963.

She was born October 7, 1927 in Melrose, Massachusettes. Married, she has four children.

DR. LAWRENCE J. KORB

President Reagan nominated Dr. Lawrence J. Korb as Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) on April 1, 1981. He was confirmed by the Senate on April 27, 1981, and sworn in on May 4, 1981.

In this position, Dr. Korb administers over 70 percent of the entire Defense budget and has responsibility for: recruiting, retaining and training the five (5) million, active duty, Reserve, and civilian employees of the Defense Department; maintaining this Nation's worldwide military base structure; and providing logistic support to the land, sea, and air forces of the United States.

Dr. Korb was born on July 9, 1939 in New York City and educated at Athenaeum of Ohio (B.A. - 1961), St Johns University (M.A. - 1962) and the State University of New York at Albany (Ph.D. - 1969). He served as a Naval Flight Officer from 1962 to 1966 and is presently a commander in the Naval Reserve.

Prior to joining the Administration, Dr. Korb served as Resident Director of Defense Policy Studies at the American Enterprise Institute for Public Policy Research.

He has held several major academic positions, among them: Assistant Professor of Political Science, the University of Dayton, 1969-1971; Associate Professor of Government, U.S. Coast Guard Academy, 1971-1975; Professor of Management, U.S. Naval War College, 1975-1980; and Adjunct Professor, Virginia Polytechnic Institute and Georgetown University (1981).

Dr. Korb is also a Fellow of the Inter-University Seminar on the Armed Forces and Society (1971 - present); and a Member, Council on Foreign Relations (1980 - present).

In the past he has served as a Consultant to the Office of the Secretary of Defense; to the Office of Education; and to the National Security Council; Dr. Korb has been selected as an outstanding educator in America on two occasions. He also served as the Chairman of the International Studies Association Section on Military Studies (1973-1976) and is listed in American Men and Women of Science and Who's Who in America. Dr. Korb also served as a Member of the Defense Advisory Committee for President-Elect Reagan (1980); and a Member of the Transition Team, Arms Control and Disarmament Agency (1980).

Dr. Korb has published over 75 books and monographs, articles and professional papers on defense issues and budgetary considerations, including The Joint Chiefs of Staff: The First Twenty-Five Years and The Rise and Fall of the Pentagon. Dr. Korb has lectured widely on national security policy.

Attachment 8 - State Street Mall
Case

BEFORE THE
ARCHITECTURAL AND TRANSPORTATION
BARRIERS COMPLIANCE BOARD

WASHINGTON, D.C. 20202

In re Compliance
Eight Subway Stations
State Street Mall
Chicago, Illinois

Citation 4-80-7

AGREEMENT

IT IS HEREBY AGREED by the Executive Director of the Architectural and Transportation Barriers Compliance Board (Board) and respondents the City of Chicago and Mayor Jane M. Byrne (City) and the Chicago Transit Authority (CTA):

1. The Chicago Transit Authority or its successor, will advertise for bids by August 15, 1981, for construction of elevators from the street level to the subway platform, and related accessiblity features, at Quincy Court between Adams and Jackson Streets on State Street. The bid documents shall be substantially consistent with the design and engineering documents submitted to the Urban Mass Transportation Administration (UMTA) on January 2, 1981, with any minor amendments approved by UMTA, under Job Order 9975 of UMTA grant Il-03-0066. Construction under this job order will begin by January 1, 1982, and will be completed by March 1, 1983.

2. City will exercise its best efforts to secure expeditious review by applicable City of Chicago Departments of the plans and permit applications for the work described in paragraph #1 and expeditious fulfillment of its obligations under the design contract with CTA.

3. The City will exercise its best efforts to ensure that access for disabled persons, including persons who use wheelchairs, is provided from the street level to the platform of the State Street subway, at one location between Lake and Madison Streets, according to the following schedule:

a. Bids to be accepted by July, 1984;

b. Construction to begin by January, 1986;

c. Construction to be completed by December, 1988.

Such facility will be designed to provide for access by disabled persons, including persons who use wheelchairs, at all times access by the general public to the platform is available.

4. The City will exercise its best efforts to satisfy the requirements of paragraph 3 through the North Loop Development project.

5. If the City proceeds with the North Loop Development project without Federal funds, the dates for compliance with the requirements of paragraph 3 shall be as follows:

a. Bids to be accepted by July, 1983;
b. Construction to begin by January, 1985;
c. Construction to be completed by December, 1987.

6. If at any time it becomes evident that the City will not be able to meet or substantially meet the dates established in paragraphs 3 and 5, through the North Loop Development project, the City will exercise its best efforts to ensure access for disabled persons, including persons who use wheelchairs, from the street to the State Street subway platform, at one location on the State Street subway line other than between Van Buren and Madison Streets. If the requirements of this paragraph have been satisfied and if the City has exercised its best efforts as required in paragraphs 2 through 6, but despite these efforts, construction has not begun as required in paragraphs 3 and 5 by December, 1988, the City's obligations under this agreement shall be deemed satisfied.

7. The requirements of paragraphs 3 through 6 shall not become effective until October 1, 1981.

8. If construction is begun to provide access for disabled persons, including persons who use wheelchairs, from the street level above the Adams/Jackson stop on the Dearborn subway line to the platform at the Adams/Jackson stop by June, 1983, such action will discharge the City's obligations under paragraphs 3 through 6.

9. If necessary grantor approval has been received for an architectural and engineering grant to the CTA for the facilities described in paragraph 8, the City's obligation under paragraphs 3 through 6 of this agreement shall be temporarily suspended from

the date of such approval. The City shall resume its best efforts under paragraphs 3 through 6 on January 1, 1983, unless by such date necessary grantor approval has been received for a grant for the construction of the facilities described in paragraph 9, and construction of such facilities is scheduled to begin by June 1, 1983.

10. The City and the CTA will submit progress reports to the Executive Director of the Architectural and Transportation Barriers Compliance Board on January 1 and July 1 of each year, beginning January 1, 1982, until their respective obligations under this agreement are satisfied. The requirements of this paragraph may be satisfied by transmittal of applicable quarterly UMTA progress reports.

11. The CTA will notify the Executive Director of the Board, or his or its successor, when the construction described in paragraph 1 has been substantially completed. The CTA shall be relieved of its obligations under this agreement unless the Executive Director notifies the CTA, within seven (7) business days of his receipt of such notification, that he believes that the construction is not substantially in accordance with the bid documents referred to in paragraph 1. Any such notification by the Executive Director is not evidence of a breach of this agreement.

12. It is understood that this agreement does not constitute an admission by any party regarding allegations of violations of the Architectural Barriers Act of 1968 or any applicable standard. This document shall not be precedent for, or binding upon the parties in any future case or controversy arising out of the applicability of the Architectural Barriers Act of 1968, as amended, or regulations promulgated thereunder.

13. The Executive Director of the Board will file a motion for dismissal of the subject citation with prejudice and for entry of an Order based on this agreement, in the form attached to this agreement.

14. The parties to this agreement shall issue a joint press release for dissemination of this agreement to the public.

APPROVED:

FOR THE EXECUTIVE DIRECTOR

Robert M. Johnson
Executive Director

Charles D. Goldman
General Counsel

Irene Bowen
Deputy General Counsel

Debra Fischer
Staff Attorney

ARCHITECTURAL AND TRANSPORTATION BARRIERS
COMPLAINCE BOARD

FOR THE CITY OF CHICAGO

Jane M. Byrne
Jane M. Byrne
Mayor

Stanley Garber
Corporation Counsel

FOR THE CHICAGO TRANSIT AUTHORITY

Eugene M. Barnes
Eugene M. Barnes
Chairman

Ronald Bartkowicz
First Assistant General Attorney

Jean M. Golden
Staff Attorney

BEFORE THE
ARCHITECTURAL AND TRANSPORTATION
BARRIERS COMPLIANCE BOARD
WASHINGTON, D.C. 20202

In Re: Compliance Eight Subway Stations State Street Mall Chicago, Illinois	: : : :	Citation No. 4-80-7

ORDER

WHEREAS the Executive Director of the Architectural and Transportation Barriers Compliance Board has filed a citation requesting various relief, and

WHEREAS the respondents have contested their liability under the citation, and

WHEREAS the Executive Director and respondents the City of Chicago, Mayor Jane M. Byrne and the Chicago Transit Authority have agreed upon entry of an order in this action on the basis of the agreement which has been filed with the Administrative Law Judge, and

WHEREAS it appears that no notice of hearing upon the entry of this final judgment need be given,

IT IS THEREFORE ORDERED, on motion for dismissal filed by the Executive Director, that the Executive Director and respondents take those steps agreed to in the agreement which has been filed with the Administrative Law Judge and that the entry of this judgment shall not preclude any party, or any other entity which succeeds to the duties or responsibilities of any party, from bringing an action to enforce the terms of the agreement in an appropriate court or before an appropriate Administrative Law Judge. Questions relating to the proper procedure and forum for enforcement of the agreement are left open for resolution when and if such matter should arise in the future.

IT IS FURTHER ORDERED that the citation be dismissed with prejudice.

Ralph B Maxwell
Ralph B. Maxwell
Administrative Law Judge

Dated: July 22, 1981

PROOF OF SERVICE

I hereby certify that a copy of:

ORDER - and

ORDER GRANTING MOTION FOR DISCONTINUANCE AS TO FEDERAL RESPONDENTS

in the case of Compliance Eight Subway Stations, State Street Mall, Chicago, Illinois, Citation No. 4-80-7, has been served by first class mail upon the parties whose names and addresses appear as follows:

L. Irene Bowen
General Attorney
Architectural and Transportation
Barriers Compliance Board
Washington, D. C., 20201

Cynthia Straker Pierce
Attorney-Advisor
U. S. Department of Transportation
400 7th Street S. W.
Washington, D. C. 20590

John O. Demaret
General Attorney
Chicago Transit Authority
440 Merchandise Mart
Chicago, Illinois 60654

Stanley Garber
Corporation Counsel
City of Chicago
511 City Hall
Chicago, Illinois 60602

Michael L. Martinez
Attorney-Advisor
Urban Mass Transportation
Administration
400 7th Street S. W.
Washington, D. C. 20590

Dated: July 22, 1981

Geraldine Wilhelmsen
Geraldine Wilhelmsen
Secretary

BEFORE THE

ARCHITECTURAL AND TRANSPORTATION

BARRIERS COMPLIANCE BOARD

In Re: Compliance :
Eight Subway Stations :
State Street Mall : Citation No. 4-80-7
Chicago, Illinois :

ORDER GRANTING MOTION FOR DISCONTINUANCE AS TO FEDERAL RESPONDENTS

The Executive Director of the Architectural and Transportation Barriers Compliance Board, having filed a motion for discontinuance of these proceedings against the Federal respondents (Department of Transportation, the Secretary of Transportation, Urban Mass Transportation Administration, the Urban Mass Transportation Administrator, Federal Highway Administration, and the Federal Highway Administrator), and it appearing of record that the Federal Respondents do not oppose such motion, and that good cause has been shown, it is now

ORDERED, that the aforesaid motion for discontinuance is granted, and the above entitled proceedings are discontinued as to the Federal respondents herein, and that the said Federal respondents be and they are hereby dismissed, with prejudice.

Ralph B Maxwell

Ralph B. Maxwell
Administrative Law Judge

Dated: July 22, 1981

Attachment 9 - Letter to Mr. Meese

December 16, 1981

Mr. Edwin Meese, III
Counsellor to the President
The White House
Washington, D.C.

Dear Mr. Meese:

This is an appeal to the Budget Review Board for a decision reversing the Office of Management and Budget (OMB) recommendation that no funds be provided for the Architectural and Transportation Barriers Compliance Board in the President's FY 1983 budget request.

There are compelling reasons for continuing funding for the Board through FY 1983. In recent months, the Board has worked successfully with both the public and private sectors to develop useful accessibility standards that are cost sensitive. This effort has resulted in an excellent notice of proposed rulemaking announcing significant modifications to the Board's Minimum Guidelines and Requirements so as to more closely align them with national and Federal accessibility standards.

There is now a much improved rapport between the Administration and the leadership of the handicapped community because of the recently concluded successful negotiations over modifications to the Guidelines and Requirements. That cooperative spirit can be expected to continue with the addition in the coming months of four new public Board members.

One cannot ignore that during the past several months the struggle over the Board's survival and the fate of its accessibility regulation was played out, repeatedly, in the news media across the nation. The Board became a cause célèbre for members of Congress, veteran's organizations and physically handicapped individuals and their organizations, all of whom forcefully resisted "zero funding" of the Board for FY 1982. Seeking so soon after that experience to eliminate all funds for the Board in FY 1983 is to invite once again precisely the widespread negative reaction of the handicap community that we have just successfully neutralized. Such a controversy at this time would serve only to miscast the President and this Administration in a position of being against another strong and vocal sector of the populace -- i.e., handicapped persons. That is an image which both the President and the Vice President have explicitly disavowed. I would think we all would want to be most careful that budgetary decisions not create misperception of the sort described -- especially when the amount involved is relatively so insignificant.

Continuation of the Board through FY 1983 is necessary to fulfill its statutory mandate under the Rehabilitation Act. Reserved portions of the Guidelines and Requirements -- the development of which by unanimous consent of the Board was deferred at the last meeting -- must be completed. In addition, the Board serves as a valuable resource for the four agencies currently developing a uniform Federal accessibility standard. The staff is exceedingly small, but its special expertise in the area of the Board's primary responsibility makes it uniquely effective. The Administration should not, in my judgment, dispense with this one direct link to the handicap community before it and the public are satisfied that the difficult questions in the area of cost-effective accessibility criteria have been resolved. This argues strongly for funding the Board through FY 1983 at current levels.

I would also note that, under the Board's authorization statute, it is charged with responsibility to ensure compliance with accessibility standards promulgated under the Architectural Barriers Act. This is one of the principal functions for which the Board was originally created by Congress and which Congress expects to be continued. It is also a function which, because it affects all other agencies of the Federal Governemnt, cannot be delegated or reassigned to any of them. Historically, the Board has resolved almost all complaints amicably and has resorted to litigation only in rare circumstances. It can effectively continue this activity within the limits of the proposed budget figures submitted.

In conclusion, there are compelling policy and programmatic reasons for the Board to be continued for another year at its current level ($1.9m). The risk of a fracture of relations between the Administration and the disabled community is great if the Board is terminated; such a result can and should be avoided, especially in light of the current cooperative attitude that has been recently established. Furthermore, the disruption of the useful work now being done by the Board would be counterproductive. Therefore, I request reconsideration of the Office of Management and Budget's recommendation that the President's FY 1983 Budget Request not include $1.9m for the Architectural and Transportation Barriers Compliance Board.

Sincerely,

Wm. Bradford Reynolds
Acting Chairperson

SUBCOMMITTEE RECESS

Senator ANDREWS. The subcommittee stands adjourned.

[Whereupon, at 12:20 p.m., Friday, March 12, the subcommittee was recessed, to reconvene Monday, March 15.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

MONDAY, MARCH 15, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m., Hon. Mark Andrews (chairman) presiding.

NATIONAL TRANSPORTATION SAFETY BOARD

STATEMENT OF JIM BURNETT, JR., ACTING CHAIRMAN

ACCOMPANIED BY:
J. PETER KISSINGER
PAUL M. VOORHEES
BARRY SWEEDLER

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

This morning we are hearing the National Transportation Safety Board. Our witnesses include Mr. Jim Burnett, Jr., the Acting Chairman and members of his staff.

PREPARED STATEMENT

Let me assure you, Mr. Burnett, that your statement will be included in the record as though read in total, and you may summarize it before we get to the questions. We will be glad to hear from you.

[The statement follows:]

STATEMENT OF JAMES E. BURNETT, JR.

Mr. Chairman and members of the subcommittee, I am pleased to appear before you to present the Safety Board's budget request for fiscal year 1983.

Before I begin I will introduce the members of the Safety Board staff with me at the table. They are Mr. Peter Kissinger our Managing Director, and Mr. Paul Voorhees, our Comptroller.

First let me say that I am very pleased to be here representing the National Transportation Safety Board. Prior to coming to Washington it was my hope that I would be able to serve with an agency whose mission required Federal involvement and which could make a substantive national contribution. After my first few months with the Board, I am pleased to tell you that I have not been disappointed. In fact, the Board's performance during several recent major transportation accidents has been truly gratifying.

I believe any discussion of the Board's resource needs is best prefaced with a brief look at the Board's transportation safety functions, and their impact on the national economy. It is clear that the quality of our nation's transportation system is a major factor in the health of our national economy. I hope it is just as clear that the investment of public funds in the Safety Board is returned many, many fold in terms of significant systemic improvements, often accomplished without regulations. As a result, I believe the continued effective operation of an independent Safety Board, is deserving of funding on a priority basis.

The American use of transportation is awesome. This is a Nation that takes pride in its superhighways, supertankers, jumbo jetliners and extensive rail and pipeline systems. In 1981, automobiles alone logged more than 1 trillion vehicle miles over our highway system. Scheduled air carriers made more than 9 million takeoffs and landings and more than 300,000 miles of railroad track knitted the Nation's cities and towns together, a network second in length only to the more than 400,000 mile intercity pipeline system that criss-crosses the continent.

Last year, highway accidents claimed over 49,100 lives. General aviation flying resulted in 1,265 fatalities. U.S. air carrier accidents, including commuters, claimed 134 lives, and 1,595 other Americans died in commercial and recreational marine accidents. Railroad accidents claimed 504 lives and pipeline accidents produced 20 fatalities. In addition to untold personal hardship and grief, transportation accidents represent a massive economic cost to society. Motor vehicle injuries alone are estimated to cost our Nation an incredible $14.4 billion a year in long term health care expenditures and lost productivity -- a figure which is slightly above that for heart disease and over twice that of strokes.

In addition to its enormous size and complexity, the transportation system's dynamic nature and obvious importance to our economy are factors which demand Federal attention. Accordingly, in 1974 the Congress directed the Board to conduct independent accident investigations in the five transportation modes - aviation, rail, highway, marine and pipeline. In addition to its primary mission of accident investigation, the Board conducts special studies and evaluations of transportation safety problems, exercises oversight responsibility of other government agencies involved in transportation safety and, importantly, makes safety recommendations designed to prevent the recurrence of accidents in all transportation modes.

The primary function of the Board is accident investigation. Investigative teams which we call "Go-Teams" are maintained on a 24-hour basis in each mode. The teams are made-up of technical experts who possess a wide range of accident investigation skills. In aviation, for example, a Go-Team roster could include one of the Members of the Safety Board, an air traffic control specialist, a meteorologist, aircraft engine and structures technicians, as well as experts trained in witness interrogation, aircraft operations and maintenance recordkeeping. In the case of a railroad accident, the Go-Team format is similar, but the "specialties" vary and might consist of a track engineer and a signals expert, along with an intermodal human factors specialist, whose role would range from identifying the types and causes of accident injuries to determining the psychological factors contributing to the cause of the accident.

The Go-Team utilizes a party system in which the Board investigates each aspect of the accident with the full participation of qualified representatives as needed from the operator, manufacturer, regulatory agency and unions, companies, and agencies. The Board's independent leadership works to ensure the public an objective and thorough investigation. This party-team concept is one of the primary factors that makes the Board's operation unique. First, only a portion of the total resources used in the investigation are provided by the Federal Government; second the parties to the investigation usually include the same parties who must eventually implement the corrective recommendations issued by the Board, and having been a significant part of the investigative process, they are far more likely to support the recommendations.

When a major accident occurs -- such as the Air Florida plane crash or the recent Metro subway derailment -- the public looks to the Federal government and the Safety Board for reassurance that the tragedy will not be repeated. Because of the Board's established reputation for independent, competent, thorough investigations, public confidence is quickly restored.

The Board's goal of reducing the recurrence of transportation accidents and the resulting loss of life and property is accomplished, in part, through an excellent working relationship with the private sector and other Government agencies. This voluntary cooperation tends to reduce the need for regulation and enforcement.

Now that I have briefly described how our investigative process works, I'd like to give you a brief synopsis of the Safety Board's activities relating to a series of major accidents which occurred in January as an illustration of how theory becomes reality . Following this discussion, I will also discuss other Board safety activities.

As you probably will recall, snow was falling on January 13, 1982, and Federal employees were allowed to leave early that afternoon. At 4:00 p.m., Air Florida flight 90 hit the 14th street bridge and sank into the Potomac, killing a total of 78 persons. Within minutes, the Safety Board was notified and the aviation accident Go-Team was dispatched. A temporary command post was established at Hangar 6 at Washington National Airport that evening to organize the initial phase of the on-scene investigation.

The permanent command post was set up at the Twin Bridges Marriott and the initial organizational meeting, directed by Member McAdams, was held the next morning. Four parties to the investigation were immediately designated -- the Federal Aviation Administration, Air Florida, The Boeing Company, and Pratt & Whitney, (maker of the aircraft engines).

A progress meeting was conducted each evening by the Investigator-in-Charge to review the events of the investigation and to plan additional work. Each meeting involved the Safety Board investigators and about 125 persons designated by the parties who were assigned among the several working groups.

The initial investigation team consisted of 9 groups headed by Safety Board investigators. They were Operations, Air Traffic Control, Witnesses, Powerplants, Human Factors, Systems, Structures, Meteorology, and Maintenance Records. The cockpit and voice recorder groups were convened once the Navy and Coast Guard diving teams recovered the recorders on January 20, 1982. An airport group was formed on January 18th, and an aircraft performance group convened in Seattle at the Boeing plant on February 1st. Each of the groups had from 3 to 11 members assigned by the parties to the investigation, and worked under the supervision of Safety Board investigators.

The Structures, Systems, Powerplants and the two recorder groups started their investigative efforts as pieces of the aircraft were pulled from the Potomac. The Structures Group Chairman worked with the military divers to establish recovery priorities for aircraft components and to instruct divers on aspects of the aircraft and its parts. The Human Factors Group Chairman supervised the recovery of bodies, and worked with medical authorities from the District of Columbia and the FAA's Civil Aeromedical Institute on autopsies and injury documentation.

As aircraft components were recovered they were laid out in a U.S. Coast Guard hangar at Washington National Airport. Eventually, all recovered pieces of the fuselage were placed in their relative position on the airframe for final examination and documentation. The engines were shipped to the manufacturer's plant where the Safety Board supervised the tear-down and inspection of each engine. Other system and avionic components were examined in detail at various plants. This included the deicing fluid used to deice Air Florida Flight 90, and an examination of the vehicles used in the deicing procedure.

A public hearing was convened by the Safety Board earlier this month. The hearing was held to augment the factual portion of the investigation, and to clarify some of the data developed during the on-scene phase of the investigation. The information developed in the hearing and the investigation will be the basis for the analysis of the accident and the final Board report. Although I cannot speculate on the results of the investigation, I can list the major issues which emerged during the investigation and hearing.

1. The Operational History of Air Florida Flight 90 on January 13, 1982, Including all Aspects of the Deicing Operation and Aircraft Deicing Procedures;

2. Air Traffic Control Procedures as Related to Air Florida Flight 90;

3. B-737 Engine Anti-Ice System and Prescribed Operating Procedures;

4. B-737 Aircraft Performance Characteristics Pertinent to the Known Operating Environment;

5. Air Florida's Practices, Procedures, and Training with Respect to Cold Weather Flight Operations;

6. Rescue and Recovery Operations Conducted With Respect to this Accident;

7. Airport Certification Requirements and Safety Standards Applicable to Washington National Airport Operations; and

8. Air crew coordination and decision-making factors.

We hope to complete the investigation and publish our full report by mid-year.

As all of you know, on the same day and at nearly the same time as the Air Florida accident, a Washington Metro train accident occurred on the Orange Line, killing 3 and injuring 24. Board Member Patricia Goldman actuated a Go-Team to investigate this accident minutes after it occurred while over a thousand passengers were still being evacuated.

The train involved in the accident was an eastbound Orange Line train operating from Ballston to New Carrollton. After leaving the Federal Triangle Station it was erroneously routed manually through a cross-over to the westbound track at the Smithsonian Station. However, when the lead wheels of the first car had passed through the cross-over and were partly on the westbound track with the rear of the car still in the crossover, the train was stopped. A supervisor then boarded at the rear end of the train and began to back it up in order to move the entire train back onto the eastbound track. While this backup move was in progress, the wheels of the lead car derailed and continued through the switch down the westbound track. As the train continued backing, the car moved crossways in the tunnel crossover location and eventually the middle of the lead car was dragged into the end of a concrete wall separating the two tracks into individual tunnels. As the tunnel wall tore open the side of the car, the car roof buckled and the floor collapsed near the car center, causing some passengers to become trapped and injured in the wreckage.

As you are aware, in the past two years the Board has focused special effort on improving rapid rail transit safety, especially with respect to emergency response and evacuation procedures. We remain deeply concerned about what might have happened in that train, jammed with commuters, had there been a fire.

Just six days later, while both the Metro and Air Florida investigations continued, a go-team was dispatched to investigate a mid-air collision between a corporate aircraft and a general aviation aircraft in Rockport, Texas. Just four days after that a World Airways DC-10 skidded off the runway and into the water at Logan Airport in Boston. Then on January 28, 1982, a backhoe operator working for the city of Centralia, Missouri, hit and ruptured a 3/4-inch steel control line serving a Missouri Power and Light Company gas regulator. The gas regulator opened wide and allowed natural gas at almost 200 times the normal pressure to enter the city of Centralia's low pressure gas distribution system. Within minutes approximately 300 gas customers experienced flames 4 to 5 feet high in their furnaces, stoves and water heaters. The flames ignited combustible material in the houses and buildings involved and before the gas could be shut off and the fires extinguished, 9 houses were totally destroyed and 12 others were extensively damaged in varying degrees. Fortunately no fatalities occurred and only two injuries were sustained by persons attempting to extinguish the fire.

Not long after that an Alaskan air carrier aircraft made an emergency landing on a frozen river and a Go-Team was dispatched to the site where the wind-chill was minus 45 degrees. And I accompanied still another Go-Team when a fire aboard a commuter flight forced a landing on the frozen surface of a reservoir in Rhode Island.

I could go on and on, as I haven't touched on investigations in progress prior to Air Florida, or other subsequent accidents . What I hope to leave in the minds of the committee, Mr. Chairman, is that the volume of these accidents is substantial, that the loss of life and property damage caused is substantial, and that the Safety Board, through its investigations and safety recommendations, can be a most effective catalyst in minimizing the recurrence of these accidents.

There is no doubt in my mind that the Administration and the Congress share our desire to continue providing the American public with the best mechanism available to counteract breakdowns which occur in our national transportation system. Let me highlight several significant safety issues we are pursuing.

Aircraft Crashworthiness

A major safety issue in aircraft design is the structural adequacy of passenger seats and other cabin furnishings. The current FAA regulations for transport category and general aviation aircraft establish "load factors" to prevent serious injury to aircraft occupants in a minor crash landing and have not been updated since 1953. Safety Board investigations have repeatedly shown that the established load factors are inadequate to protect aircraft occupants. Seat failures in severe but survivable accidents continue to occur. Research on this issue has been underway since the mid-1960's and in 1979 the FAA began yet another comprehensive study. Nevertheless, unless the FAA acts quickly the Safety Board does not foresee that the FAA's program will result in any improvements in aircraft crashworthiness in the next 15 years. We believe that the FAA's research could take greater advantage of the existing technology and previous research on the subject.

Fire Safety

About 20 percent of all air carrier accidents involve post-crash fire. In many accidents passengers have survived the impact only to die in the ensuing fire. This problem was recognized 20 years ago and fire safety recommendations were made to the FAA. Only recently, the FAA has begun a comprehensive research program. Two current projects, dealing with the flammability of cabin interior materials, and the release and ignition of the fuel show promise.

NASA has developed a seat fire blocking concept which protects the highly flammable and toxic seat cushion materials with thin layers of flame-resistant materials. Initial full-scale fire tests have been performed with encouraging results. Other full-scale tests are contemplated in the near future which include state-of-the-art wall and ceiling panelling, carpeting and other materials that make up the interior of aircraft cabins.

Also, FAA is experimenting with a fuel additive called FM-9, which prevents, to a large extent, the formation of highly flammable and explosive fuel mists that form when fuel is released from damaged fuel tanks while the aircraft is subject to high decelerative forces. Evaluation and tests have shown that flame propagation through fuel mists can be effectively reduced or entirely eliminated with these modified fuels.

The Safety Board believes that decisive action can and must be taken in the form of interim standards if we are to see appreciable differences in the fire accident statistics in the near future.

Aircraft Certification/Damage Vulnerability

Vulnerability of an aircraft to damage resulting from structural failures or discrete sources, such as uncontained engine failures or foreign object damage, has been a continuing concern of the Safety Board as reflected in several past recommendations. In a 1975 special study of turbine disk failures, the Board recommended that NASA provide containment guidelines to FAA from the Rotor Burst Protection Program. Also after completing a special investigation of the airworthiness of CF6 engines with drilled tip fan blades, the Board recommended that the FAA evaluate the adequacy of bird ingestion criteria because of the serious secondary damage which may result from severe cases of bird ingestion. Most recently, as a result of our investigation of the DC-10 accident in Chicago, the Board recommended that the FAA incorporate in type certification procedures full consideration of possible failure combinations which can result from primary structural damage in areas through which essential systems are routed. The FAA's position is that the current regulations are adequate. Nevertheless, NTSB investigations have repeatedly shown that, while regulations may provide for consideration of combined failures or secondary effects, the methods used to demonstrate compliance, which were accepted by the FAA, lacked uniformity and consistency. Consequently we have requested the FAA to clarify its position by providing specific guidelines for considering the combined failure cases during type certification.

The Safety Board is presently investigating three cases of uncontained engine failures which caused substantial secondary damage. On September 22, 1981 an Air Florida Airlines DC-10 experienced an uncontained failure of the right underwing engine low pressure turbine rotor on takeoff at Miami International Airport. The release of high energy fragments produced minor structural damage, caused an uncommanded retraction of the right outboard wing leading edge slats and caused failure of two of the aircraft's three hydraulic systems. On September 22, 1981 an Eastern Airlines Lockheed L1011 experienced a fan shaft failure of the center engine in flight near Colts Neck, New Jersey. This failure caused substantial secondary damage in the empennage area including the loss of three of the aircraft's four hydraulic systems. On February 17, 1982, a Pan American American Boeing 727 experienced an uncontained failure of the center engine on takeoff from Miami International Airport which caused substantial damage. Our investigations into these cases are continuing, and particular emphasis is being placed on the certification of design features intended to minimize the effects of engine rotor disk failure on the aircraft.

Grade Crossing Safety

While fatalities at railroad-highway grade crossing have been reduced over the past few years, the Board is concerned about the continued problem of grade crossing accidents involving trucks transporting bulk hazardous materials. We have recently completed accident investigations of two catastropic accidents of this type -- one in Kenner, Louisiana, and one in Huntsville, Alabama. As a result of the Board's efforts in connection with the Louisiana accident, an Operation Lifesaver program has been established in that state. This program includes efforts to increase public awareness of grade crossing hazards. In addition, a recent Safety Board special study based on 14 accident investigations established a clear profile of this problem.

An average of 62 accidents of this type occur annually, resulting in an average of more than $1.6 million lost in property damage, and 41 injuries and seven fatalities. Some recent accidents, however, indicate that the problem may be growing. Also, extrapolation of available data on near misses suggests that there may be as many as 750 near collisions between trains and trucks transporting bulk hazardous materials each year.

The Safety Board believes that these collisions can be reduced through special emphasis in the National Safety Council's Operation Lifesaver program. Necessary activities should include:

- Identification of crossings used frequently by hazardous material trucks which do not have active warning devices.
- Establishment of hazardous material truck routes near terminals.
- Further standardization of State regulations.
- Greater law enforcement, and
- More comprehensive education of drivers of hazardous material trucks.

Rail Rapid Transit Safety (RRT)

The Board has worked to obtain improvements in RRT safety since 1970, when it issued three studies of RRT safety. Between 1975 and 1979 the Board investigated 10 major RRT accidents on 5 different rail rapid transit systems, and made numerous safety recommendations. In July 1980, the Board convened a National public hearing on RRT safety and heard testimony from 25 witnesses representing transit management and labor, local and National fire service organizations, and State and Federal agencies. Subsequently, we issued a major report which examines safety issues including rescue and evacuation of passengers from RRT cars and tunnels; elimination or minimization of flammable, toxic, and smoke-generating materials in RRT cars; emergency planning and procedures; training and drilling of transit employees, firefighters, and other emergency response personnel; emergency communications and equipment; and local, State, and Federal safety oversight of rail rapid transit systems.

The Board made 31 safety recommendations to 9 different agencies and organizations. Urgent recommendations were made to the Urban Mass Transportation Administration (UMTA) for a survey of rail rapid transit systems to determine their capability for evacuation of passengers under various operational and passenger load conditions and for the establishment of Federal guidelines for elimination or minimization of flammable, toxic, and smoke-generating materials in RRT cars.

The initial response to our recommendations has been encouraging. UMTA, the National Fire Academy (NFA), and the Federal Emergency Management Agency (FEMA) have entered into an interagency agreement to (1) conduct fire/life safety workshops to determine fire service training requirements; (2) identify site-specific fire/life safety training and education needs; and (3) provide technical assistance in the development of federal guidelines for training rail transit employees. Also, the Port Authority Transit Corporation's Philadelphia-Lindenwold subway line voluntarily instituted a program to replace the polyurethane seats in its original cars with fire-retardant nontoxic materials.

Nevertheless, the Safety Board continues to believe that additional improvements can and should be made. This concern has been heightened by our ongoing investigations of 2 accidents on New York City subway trains and the recent fatal derailment of the Washington Metro train.

Alcohol Abuse in Highway Transportation

The Safety Board has long been concerned about the many thousands of deaths and injuries that have occurred on our highways as a result of alcohol abuse by automobile drivers. It is one of the most difficult and complex problems faced by those of us engaged in reducing the losses on our highways. We believe the problem can only be successfully attacked, with hope of improvement, with the support of the average citizen. Certainly it is not a problem that can be resolved from the Federal level alone.

We have recently noted the increasing grass roots efforts of concerned citizens to bring pressure at the State and Federal legislative level to strengthen existing laws. This approach is indispensable. It will, of course, take much more than that in a long term program.

The Board is now studying what approach we can take to bring a focus on the area of greatest need and what types of actions would be appropriate to give support to citizen concern so that the needless losses can be reduced.

Child Restraints

Automobile crashes are the number one killer and crippler of children. Every year, about 700 pre-school children die from auto crashes and many thousands more are injured, including many who will be disabled for life. These figures are particularly tragic because the best protection available -- correctly used child car seats -- is not widely used. In fact, studies have reported that less than 10 percent of children under 5 years old ride in the safety of correctly used child car seats.

Public concern about these needless fatalities and disabling injuries to young children in auto crashes has led to passage of mandatory child restraint use laws by 9 States. Many other States are considering similar legislation, and several have passed laws authorizing dissemination of child restraint information to their residents.

To address this safety issue, the Board has launched an examination of efforts of Federal, State, and local governments and private organizations to encourage increased use of child restraint systems. Through this effort we hope to identify problems and highlight areas where further efforts are needed to effectively reduce child fatalities and injuries in auto crashes.

Weather Related Aviation Accidents

There are currently four safety issues of concern to the Safety Board which we believe can significantly reduce weather related accidents if appropriate action is taken.

(1) The communication of severe weather information: Severe weather, particularly in the form of thunderstorms continues to plague aviation. Thunderstorm activity is being reliably detected particularly by National Weather Service weather radar, but the information has not been readily available to either the air controller or pilot. Due in large part to Safety Board recommendations, teams of National Weather Service meteorologists have been placed at Air Route Traffic Control Centers to assist controllers, and development is underway to display computer interpreted weather radar information directly on controller's radar displays.

2) Low Level Wind Shear: Low level wind shear presents a hazard during the two most critical phases of flight, take-off and landing. The Safety Board has made several recommendations to the FAA concerning low level wind shear, and some action has been taken. The Low Level Wind Shear Alert System is presently installed at several major airports throughout the United States and is being installed at many more. This system alerts controllers and thus pilots to wind shear in the immediate vicinity of the airport. Efforts are underway to develop

systems which will measure wind shear over appraoch and climb-out paths.

(3) In-flight Icing: Last year the Safety Board conducted a study into the problems associated with aircraft structural icing and found need for improvement in the observation of icing conditions, icing forecasts, and the certification of aircraft for flight into icing conditions. The Safety Board made recommendations to several agencies requesting a combined effort to alleviate these problems, and is monitoring the efforts involved.

(4) Aircraft De-icing at Terminals: Over a year ago the Safety Board identified the existence of problems with the accumulation of snow on aircraft after de-icing and the attendant loss in performance making take-offs unsafe. The Safety Board made recommendations to the FAA to warn pilots of this hazard and to establish criteria for safe de-icing procedures. The FAA concurred with the recommendations and initiated action on each of them. As I noted earlier in my statement, evidence presently points to accumulated snow as a factor in the crash of Air Florida Flight 90 in the Potomac River on January 13th of this year. The Safety Board is presently studying this problem and expects to be able to recommend additional specific actions to prevent such accidents in the future.

(5) Runway Slipperiness Measurements: Based on the events of the recent weeks -- both the Air Florida accident and the World Airways accident at Boston -- and on the long history of the inadequacy of runway slipperiness measurements, an all-out effort must be made to solve this problem that is with us both summer and winter and which can affect most seriously aircraft during both take off and landing. It has been long recognized that a reliable method to determine the friction coefficient of runways under dry, wet, icy or snowy conditions is essential. The use of a truck or an automobile with no special instrumentation to determine the slipperiness of a runway obviously does not bear much relationship to aircraft operations. Pilot braking

reports are also unreliable and are merely a matter of opinion, with no basis for correlation to other aircraft. A more precise and repeatable method is needed.

Vessel Traffic Services

There are now eight vessel traffic service systems in operation in U.S. ports and one under development. These systems are more vical today than in 1971 when they were first established because of our greater dependency on trade, the increased size and number of ships, and the large increase in shipment of hazardous materials by water. These systems can also produce both economic and safety benefits. In most areas the pilots, masters, and shipowners recognize that the utility of our waterways depends on a cooperative effort to make the systems work. The Safety Board has made numerous recommendations to improve the operation of the various systems following the investigation of accidents on waterways serviced by VTS. However, the Safety Board is deeply concerned because the Coast Guard is planning to close down some of the systems due to budgetary reductions. This will result in an increase in the risks of ship accidents on our waterways.

Passenger Ferries

During the past several years, several collisions involving passenger ferries in commuter service have occurred on U.S. waterways which have increased the Safety Board's concern for passengers using the ferries. The New York City ferry AMERICAN LEGION was carrying 2400 passengers when it was involved in a collision with a Norwegian freighter during a dense fog in New York harbor, on May 6, 1981. On January 13, 1981 the Washington State ferry KLAHOWYA, and a Liberian flag freighter collided in a dense fog in Seattle's Elliott Bay. Although the KLAHOWYA was carrying only about 150 passengers it had the capacity to carry 1140 persons.

The progressive increase in the number of passengers that ferries are designed to carry (exceeding 5000 in some designs), and the increased speeds at which the ferries are able to travel, make it imperative that safety be given the utmost consideration in their operation.

Our investigations have revealed that the navigation equipment, including the radar systems should be upgraded, and present training of ferry operators in the use of radar needs review as to its applicability to inland waterway operations. Because of the small ferry crews normally carried, the Safety Board is also concerned as to the ability of the crew to adequately assist passengers in the event that a ferry has to be abandoned in a harbor, particularly in dense fog. Most accidents involving ferries leave little time to prepare the passengers for a disaster. For example, in 1975 a ferry accident resulted in 72 (71 percent) of the ferry's passengers perishing on a cross-river trip that normally took only about 7 minutes.

The Safety Board will continue its effort to improve passenger ferry safety so as to preclude the eventuality of a major catastrophe.

It is obvious that resolving these issues costs money, and equally obvious that the resources available for Federal transportation are limited, and that even the more effective programs can not be immune from resource reductions. However, I am deeply concerned with the diminishing ability of the Board to continue to respond to transportation accidents as you and the public expect.

It is my intent to describe to you, in the clearest possible terms, the impact recent reductions is having on the Board so that you may make informed policy decisions affecting public safety and the well-being of our nation's transportation industry as you consider our 1983 budget.

When I was appointed last June there were 374 people at the Board; when I was confirmed in December there were 353, and two weeks from now there will be approximately 293 - a reduction of 22% in only 9 months.

What all these numbers mean is that 1) We have had to cut our field accident investigation program by 56% in rail, 43% in highway and 100% in pipeline; 2) We are not staffed to send experts in all specialties to accident investigations; and 3) Safety initiatives previously funded by the Congress such as our expanded human factors program, our new accident data system, and our increased laboratory analytical capability have been stalled.

Pipeline Safety

The recent budget cuts have reduced the Board's pipeline safety staff to only one investigator and one supervisor. As a result the Board is being forced to raise the property damage threshold for its investigations from $150,000 to $500,000 and will be investigating significantly fewer accidents in the future.

It is difficult to quantify the safety impact of these reductions, since one cannot predict what accidents will or will not happen. Nevertheless, an examination of our past accomplishments indicate that significant safety improvements will be lost. For example our new criteria means that accidents such as the recent accident in Centralia, Missouri may not be investigated.

Railroad Safety

Recent budget cuts have forced a 53 percent reduction in the Board's railroad field program, leaving us with only 7 investigators in the field.

The Board will continue to investigate all accidents which involve a passenger or crew member fatality. However, as a result of the cutbacks, the Board is being forced to raise the property damage threshold for its investigations from $150,000 to $500,000, thus drastically reducing the number of investigations.

Last year the Board investigated some 200 accidents in which the property damage was less than $500,000.

In many of these accidents, even though there was limited property damage the Safety Board investigation developed safety lessons which will help prevent future catastrophes. We hope to continue the investigation of significant safety issues, but obviously our ability to identify these issues in all cases will be reduced.

The cutbacks will also mean that -

- Pedestrian casualties (so-called trespasser accidents) which kill between 250 and 300 people per year will not be investigated;

- Field support for technical studies and efforts to insure implementation of past safety recommendations will be reduced.

The Board's reduced presence in railroad and transit safety comes at a time when railroads are cutting corners to maintain competitiveness, while the Federal Railroad Administration (FRA) is taking the view that safety regulation can be replaced by voluntary industry measures. Clearly, as a result of the recent and past budget reductions the Board will no longer be able to address all significant railroad safety issues.

Marine

Recently the Coast Guard and the Safety Board agreed that the Board would conduct marine accident investigations involving a public and a non-public vessel. The primary motive for this change was to reduce duplication of effort and to avoid the situation where the Coast Guard would be investigating itself. The latter aspect drew strong criticism as a result of the accident investigations involving the Coast Guard cutters Cuyahoga and Blackthorne .

Unfortunately the Board has only 10 marine specialists to investigate all major marine casualties. Three vacancies have had to remain unfilled and some 150 investigations are pending. The budget cuts mean it may well be impossible to fully carry out the Board's responsibilities in the Marine mode.

Highway Safety

Recent budget cuts have forced a 44 percent reduction in the Board's highway field program. The Board will be able to keep only four investigators in the field.

As a result, the Board will not be able to investigate all catastrophic highway accidents, previously defined as those involving five or more fatalities, or three or more fatalities in a school bus. Also, the Board will no longer investigate as many accidents involving preselected subject areas, such as van safety, hazardous materials truck accidents at railroad/highway grade crossings, and small car compatability. Investigations will be more limited in scope, in some cases precluding a determination of probable cause.

Most of the field highway investigations will be conducted in support of Board oversight evaluations and technical studies. However, it will not be possible to support as many studies and special investigations and those now in progress will be delayed.

In highway safety, more so than in other modes, safety improvements are achieved at the State and local level. With only four investigators, it will be impossible to maintain a reasonable level of liaison with state and local officials to encourage response to the Board's safety recommendations.

Also with the limited size of the field staff it is likely that the Board will lose perishable accident data due to increased response time to major accidents.

AVIATION

We have reached a critical level regarding the depth of expertise required to investigate major accidents. A major aviation investigation requires persons highly specialized in aircraft structures and systems, powerplants, aerodynamics, maintenance, operations, air traffic control, weather, human factors and flight recorder readout. In most specialty areas we have only 2 or 3 people, and in some we have only one. We seldom know at the outset of an investigation which of these areas will prove critical. Moreover, when we are confronted with several concurrent investigations as we have been recently, we are forced to shuttle staff from one investigation to another in an attempt to provide essential expertise. I like to make the analogy to building a house. You need a carpenter, an electrician, a plumber, a mason, a roofer, etc. Their skills are not interchangeable. It does not matter how hard the others work, if you are missing one of these skills, you will never complete the house.

We simply cannot continue to do more with less. These cutbacks will mean fewer investigations, investigations of more limited scope and fewer safety recommendations. The net effect is lost opportunities to deal with relevant safety issues which continue to cause accidents, and needless loss of life and damage to property. The confidence of the transportation industry in the Board's work will suffer as the level of our expertise declines in critical skill areas. The backlog of unresolved or incomplete investigations will grow, and challenges to Board decisions will become more frequent. As emphasized earlier, the Board's effectiveness is dependent upon voluntary implementation of safety recommendations, and to lose the confidence of the industry is to significantly reduce the effectiveness of the Board.

STALLED INITIATIVES
(Human Factors)

Pilot involvement has been a causal factor in approximately 85 percent of general aviation accidents and 40 percent of air carrier accidents. Because of the large percentage of accidents in which pilot involvement has been a causal factor, the Board initiated an expanded human factors program to attempt to find solutions to these accident causes. However, the expanded human factors program begun in FY 1981 has been substantially stalled due to lack of resources this fiscal year. The Safety Board's human factors program is one of the most labor-intensive programs in the Board. Its investigative efforts range from the medical aspects of crewmember performance, survivability factors, evacuation problems, physiological factors and vehicle crashworthiness, to the adequacy of crash-fire-rescue efforts, community disaster planning and the psychological aspects of human error or human performance.

In FY 1981, the human factors program was expanded in an effort to investigate in more depth the area of vehicle crashworthiness, and the area of human performance.

The crashworthiness program called for an intensive investigation over a 2-year period of a select sample of fully survivable to marginally survivable accidents in an effort to corroborate past crashworthiness findings and to establish a data base to support future recommendations. The program had called for 10 additional human factors specialist positions, 5 of which were to come from internal personnel reallocations and 5 through the FY 1982 budget request. Only one additional person has been hired.

The human performance program, started in FY 1980 to reduce operator-related causes of accidents is also in jeopardy. At present this program is only a one-person effort and the budget reductions have made it impossible to expand it.

Laboratory Equipment

The Safety Board's Flight Data Recorder Laboratory and its Audio Laboratory are unique; no other U.S. government agency has a capability to read flight data recorders (FDR) and cockpit voice recorders (CVR). In 1981, new model digital crash recorders were installed on aircraft of several airlines; the Safety Board does not have the equipment to decode information from these recorders. For example a readout system for the new Sundstrand Data Control "Universal FDR" now installed aboard American Airlines B-727 aircraft, and a new readout system for the Fairchild digital FDR, now installed aboard Republic Airlines airplanes, will be required.

The Lab's unique FDR reader for foil-type (5-parameter) recorders is urgently in need of repair and complete refurbishing. It is 19 years old. Foil recorders are now flying aboard 2,200 U.S. air carrier aircraft, -- one was aboard the Air Florida Flight 90 -- and an NTSB readout capability is absolutely essential to the Board's mission of determining probable cause for air carrier accidents.

In addition, the digital-recorder tape-transport, now very old and unreliable, must be replaced, as must some equipment in the Audio Lab (the spectrum analyzer, and cassette tape recorder). The Audio Lab also needs an 8-track, 1/4-inch tape system to play back Sundstrand AV-577B CVR tapes, and an azimuth/elevation adjustable-head tape reproducer.

The Board's Metallurgical Laboratory has been active in aviation, pipeline, railroad, highway and marine investigations. The Lab is not duplicated by FAA or other DOT facilities. Equipment now necessary includes a table-top cutoff saw, a 35 mm camera with accessories, and a bench binocular microscope .

Management Cost Savings

It is important to note that the reductions in the substantive safety programs described above were undertaken only after every avenue was explored and exploited to achieve management savings. These management savings are short-term "fixes" to solve the Board's immediate financial crisis and were selected in order to preserve the Board's safety programs. The long-term effect of continuing these reductions will be to impair the quality and quantity of Board safety products and ultimately the respect and confidence the transportation industry has in the Safety Board.

- Clerical positions have been reduced by over 30% since January 1980. These clerical positions were reduced in order to preserve the maximum number of investigative positions. However, the loss of clerical employees has reached a point of diminishing returns because sufficient support cannot be given the investigative staff. Delays and backlogs in processing accident reports, safety recommendations, and other time-sensitive Board products will eventually compromise the impact of the Board's safety message.

- 83 percent of the Board's temporary employees were let go in January. Most of these employees were performing clerical duties to fill the reductions in full-time permanent clerical positions. This reduction has compounded the clerical support problem. Therefore, the total impact on the loss of clerical support from both permanent and temporary positions has been a reduction of over 40%.

- The management analysis function has been abolished. This function provided the Board with specific workload information upon which program and organizational realignments could be made. Studies performed in the past, which have aided the Board's ability to absorb budget cuts, have resulted in decentralization of the administrative law judges to save travel costs, consolidation and reduction of secretarial functions, consolidation of field offices to save overhead and rental costs, and reduced rental of GSA vehicles in the field.

- All Board employees were affected by the following:

  o The payment of overtime was eliminated.

  o Funds available for employee awards in all categories were reduced 76 percent.

  o Promotions were reduced by 50%.

  o All employees are scheduled to be furloughed at least 3 days in FY-1982.

  These four actions are a severe disservice to the Board's single most important asset--its employees. These actions coupled with RIFs, "bumpings," and the resulting organizational disruptions have created severe morale problems which are affecting the quality and timeliness of Board investigations, studies, and other safety efforts. We are unable to pay overtime to investigators who worked 15 to 18 hours per day, 7 days a week on the Air Florida accident, while most other Federal workers working beside them were being paid overtime. Our employees are making considerable sacrifices, but the Board can neither promote them nor provide awards to outstanding individuals. The end result of these actions, in effect, is to provide an incentive to our technical specialists and experts to seek other employment.

- Administrative travel, which was reduced in previous cuts to only 5% of the Board's travel budget, has now been reduced further by 70%. This will effectively prevent the Board's technical experts from participating in safety symposia, presenting the Safety Board's viewpoints, or conferring with other technical specialists in their field, where travel is necessary.

- Training has been reduced by 75%. The only training undertaken to date in FY-1982 has been to familiarize aviation field investigators with the new accident data system which significantly improves the crashworthiness/human performance data collected in investigations. All other training has been reduced by 95%. Remaining current in engineering, electronics, computer systems, and the multitude of other high technology fields is a continual challenge to the Board. The Board cannot hire new employees to fill the gaps created by new technologies. Therefore, it is now even more important that investigators now on board be provided even more training in these areas.

The Board is not currently staffed to perform all the duties prescribed in the Independent Safety Board Act of 1974. In lieu of specific guidance from the Congress or the President, the Board has unilaterally established priorities and will strive, to its utmost, to accomplish as much of its mandate as possible.

As an alternative to these budget reductions, the Safety Board proposed in its 1983 budget submission to OMB that an examination be made of the Federal accident investigation efforts in the Department of Transportation and other agencies to determine the most effective and efficient way to accomplish Federal accident investigation responsibilities. However, to date the Board has received no official response to this suggestion from OMB. The Board is confident that any objective appraisal would favor the Safety Board's programs, given its proven record for accomplishing major improvements in transportation safety without regulatory authority and with very few resources.

The Safety Board believes this type of rational consideration is a viable alternative to continued reductions of the Board's budget. Further reductions will clearly result in eliminating program areas which the Congress has directed the Board to undertake. Even more important, continued reductions run the risk of seriously eroding the transportation industry's and the public's confidence in the Safety Board and its ability to make viable safety recommendations. The Board is now in real danger of slipping below the critical level of staffing which allows it to conduct independent investigation and analyses of accidents and their causes.

Mr. Chairman, we are committed to the most effective and efficient use of all resources available to us, and we can assure the Congress and the public that we will deliver the greatest possible contribution to transportation safety.

We would be happy to answer any questions you may have.

INTRODUCTION OF ASSOCIATES

Mr. BURNETT. Mr. Chairman, I am pleased to appear before you to present the Safety Board's budget request for fiscal year 1983.

Before I begin, I will introduce the members of the Safety Board staff with me at the table. To my right is Mr. J. Peter Kissinger, Acting Managing Director. On my left is Mr. Paul M. Voorhees, Chief of the Comptroller Division.

SAFETY BOARD MISSION

First, let me say that I am very pleased to be here representing the National Transportation Safety Board. Prior to coming to Washington, it was my hope I would be able to serve with an agency whose mission required Federal involvement and which could make a substantive national contribution.

After my first few months with the Board, I am pleased to tell you that I have not been disappointed. In fact, the Board's performance during several recent major transportation accidents has been truly gratifying.

When a major accident occurs, such as the Air Florida plane crash, or the recent Metro subway derailment, the public looks to the Federal Government and the Safety Board for reassurance that the tragedy will not be repeated. Because of the Board's established reputation for independent, competent, thorough investigations, public confidence is quickly restored.

The Board's goal of reducing the recurrence of transportation accidents and resulting loss of life and property is accomplished in part through an excellent working relationship with the private sector and other governmental agencies.

This voluntary cooperation tends to reduce the need for regulation and enforcement. This cooperation has been highlighted during the Board's investigations involving a series of major accidents which occurred in January.

AIR FLORIDA ACCIDENT

A brief summary of the Safety Board's activities during this time period might be useful to the subcommittee. As you will probably recall, snow was falling on January 13, 1982, and Federal employees were allowed to leave early that afternoon.

At 4 p.m., Air Florida flight 90 hit the 14th Street Bridge and sank into the Potomac, killing a total of 78 persons. Within minutes the Safety Board was notified, and the aviation accident go-team dispatched to the site. Four parties to our investigation were immediately designated: the Federal Aviation Administration, Air Florida, the Boeing Co., and Pratt-Whitney, the maker of the aircraft engines.

A progress meeting was conducted each evening at the Safety Board's command headquarters by the investigator in charge to review the events of the investigation, and to plan additional work.

Each meeting involved the Safety Board investigators and about 125 persons designated by the parties who were assigned among the several working groups. The initial investigation team consisted of nine groups, headed by Safety Board investigators. They were operations, air traffic control, witnesses, powerplants, human factors, systems, structures, meteorology, and maintenance records.

The cockpit and voice recorder groups were convened once the Navy and Coast Guard diving teams recovered the recorders on January 20, 1982.

An airport group was formed on January 18, and an airport performance group convened in Seattle at the Boeing Plant on February 1. Each of the groups had from 3 to 11 members assigned by the parties to the investigation, and worked under the supervision of Safety Board investigators.

The structures, systems, powerplants, and the two recorder groups started their investigative effort as pieces of the aircraft were pulled from the Potomac. The structures group chairman worked with military divers to establish recovery priority for aircraft components and to instruct divers on the aspects of the aircraft and its parts.

The human factors group chairman supervised the recovery of bodies, gathered facts on the rescue efforts, and worked with medical authorities from the District of Columbia and the FAA Civil Aero-Medical Institute on autopsies and injury documentation.

As aircraft components were recovered they were laid out in the U.S. Coast Guard hangar at Washington National Airport. Eventually all recovered pieces of the fuselage were placed in their relative position on the airframe for final examination and documentation.

The engines were shipped to the manufacturer's plant where the Safety Board supervised the teardown and inspection of each engine.

Other system and avionic components were examined in detail at various plants. This included the deicing fluid used to deice Air Florida flight 90 and an examination of the vehicles used in the deicing procedure.

A public hearing on the Air Florida accident was just concluded by the Safety Board last week. The hearing was held to augment the factual portion of the investigation and to clarify some of the data developed during the on-scene phase investigation.

The information developed in the hearing and the investigation will be the basis for the analysis of the accident in the final Board report.

The Board took testimony from nearly 50 witnesses on such issues as all aspects of the deicing operation and aircraft deicing procedures for Air Florida flight 90; air traffic control procedures related to Air Florida flight 90; B–737 engine anti-ice system and prescribed operating procedures; as well as Boeing–737 aircraft performance characteristics; Air Florida's practices, procedures, and training with respect to cold weather flight operations; rescue and recovery operations conducted with respect to this accident; and airport certification requirements and safety standards applicable to Washington National Airport.

We hope to complete the investigation and publish our full report by midyear.

WASHINGTON METRO ACCIDENT

As you know, on the same day, and at nearly the same time as the Air Florida accident, a Washington Metro train accident occurred on the Orange Line, killing 3 and injuring 24.

Board member Patricia Goldman actuated the go-team to investigate this accident minutes after it occurred and while over 1,000 passengers were still being evacuated. The train involved in the accident was an eastbound Orange Line train operating from Ballston to New Carrollton. After leaving the Federal Triangle station, it was erroneously routed manually through a crossover to the westbound track at the Smithsonian station.

However, when the lead wheels of the front car had passed through the crossover and were partly on the westbound track with the rear of the car still in the crossover, the train was stopped. A supervisor then boarded at the rear end of the train and began to back it up in order to move the entire train back to the eastbound track.

While this backup move was in progress, the wheels of the lead car derailed and continued through the switch down the westbound track. As the train continued backing, the car moved crossways in the tunnel crossover location, and eventually the middle of the lead car was dragged to the end of a concrete wall, separating the two tracks into individual tunnels.

As the tunnel wall tore open the side of the car, the car roof buckled and the floor collapsed near the car center, causing some passengers to become trapped and injured in the wreckage.

As you are aware, in the past 2 years, the Board has focused special effort on improving rail rapid transit safety, especially with respect to emergency response and evacuation procedures. We remain deeply concerned about what might have happened in that train jammed with commuters, had there been a fire.

OTHER BOARD INVESTIGATIONS

Just 6 days later, while both the Metro and Air Florida investigations continued, the Safety Board go-team was dispatched to investigate a midair collision between a corporate aircraft and a general aviation aircraft in Rockport, Tex.

Just 4 days after that, a World Airways DC–10 skidded off the runway into water at Logan Airport in Boston.

CENTRALIA, MO., PIPELINE ACCIDENT

Then on January 28, 1982, a backhoe operator working for the city of Centralia, Mo., hit and ruptured a three-quarter inch steel control line serving the Missouri Power & Light Co. gas regulator. The gas regulator opened wide and allowed natural gas at 47 pounds per square inch pressure to enter the city of Centralia's low-pressure gas distribution system.

Within minutes, approximately 300 gas customers experienced flames of 4 to 5 feet high in their furnaces, stoves, and water heaters. The flames ignited combustible material in the houses and buildings involved, and before the gas could be shut off and the fires extinguished, 9 houses were totally destroyed and 12 others were extensively damaged in varying degrees. Fortunately, no fatalities occurred, and only two injuries were sustained by persons attempting to extinguish the fire.

PRESSURE RELIEF VALVES

Senator ANDREWS. When such an accident occurs, is it the case that there is no pressure relief valve in the low-pressure system of the city?

Mr. BURNETT. I do not know. We have not received a report in full yet from our investigators on that matter, Senator, and I would have to get back to you.

Senator ANDREWS. What you are saying is that we had an accidental shift from the high-pressure transmission line into the normal city distribution line. But it would then seem that if there is a possibility of this occurring, the normal gas distribution system in a given city should have a high-pressure pump off valve or some type of pressure relief venting. Are you telling me that you don't think that this is the case?

Mr. BURNETT. No; I'm not saying that at all, Senator. That's the purpose of our investigation.

Senator ANDREWS. But you people don't know whether there is in fact some pressure relief inherent in the system?

Mr. BURNETT. The safety device did not work.

Senator ANDREWS. It is common practice, then, that they do have in gas distribution systems this type of venting, pressure relief valves?

Mr. SWEEDLER. My name is Barry A. Sweedler. I'm the Deputy Director for Management of the Bureau of Technology.

Yes, sir, the safety devices that were installed in Centralia should have prevented this type of accident. We investigated an accident very similar to this back in 1969 in Gary, Ind., and many of our recommendations were adopted and safety features were installed in many of the systems throughout the country. In fact, all the systems throughout the country.

Our investigation is focusing on why the safety devices that should have prevented this accident did not.

Senator ANDREWS. In other words, as a result of the earlier incident in Indiana, some 12 or 14 years ago, you recommended that the safety pressure relief devices be installed in all systems?

Mr. SWEEDLER. Yes.

Senator ANDREWS. When you recommended these devices be installed to preclude the type of accident that happened 13 years ago and the one that happened again, did you also recommend that some type of orderly periodic inspections be set up?

Mr. SWEEDLER. Yes, sir. There were inspections on this particular installation within a short period of time before the accident. The investigation is focusing on whether a valve had been opened or closed which would bypass the relief preventing the excess pressure from venting harmlessly to the atmosphere.

Senator ANDREWS. So you are now determining why the inspection didn't work.

Mr. SWEEDLER. Or why the inspections didn't determine that the system was, in fact, set to activate if required to.

Senator ANDREWS. See what you get into when you read your statement, Mr. Burnett? [Laughter.]

Could you provide for the record what information you do have about the valve and what procedures you are going to implement to make sure it doesn't happen again?

Mr. SWEEDLER. Yes.

[The information follows:]

Tests conducted 6 days after the accident indicate that if the valve from the regulator to the relief valve had been open, the safety device would have been capable of relieving the 200 times normal pressure which occurred at the time of the accident.

The last annual inspection and check performed by Missouri Power and Light Co. was conducted on September 8, 1981, and company records indicated that the relief valve was off at that time. A part of the Safety Board's investigation into this accident is focusing on whether or not the relief valve was on at the time of the accident, and we are considering recommendations aimed at preventing this type of accident from happening in the future.

SAFETY BOARD EFFECTIVENESS

Senator ANDREWS. You may proceed.

Mr. BURNETT. Not long after that, an Alaskan air carrier made an emergency landing on a frozen river, and a go-team was dispatched to the site. The windchill was minus 45 degrees. I accompanied still another go-team when a fire aboard a commuter flight forced a landing on the frozen surface of a reservoir in Rhode Island.

I could go on and on, as I haven't touched on investigations in progress prior to Air Florida or other subsequent accidents. What I hope to leave in the minds of the committee, Mr. Chairman, is that the volume of these accidents is substantial, that the loss of life and property damage caused is substantial, and that the Safety Board, through its investigation and safety recommendations, can be a most effective catalyst in minimizing the recurrence of these accidents.

PERSONNEL AND PROGRAM REDUCTIONS

When I was appointed last June, there were 374 people at the Board. When I was confirmed in December, there were 353, and 2 weeks from now there will be approximately 293; a reduction of 22 percent in only 9 months.

What all these numbers means is that, one, we have had to cut our field investigation program by 56 percent in rail; 43 percent in highway; and 100 percent in pipeline. We are not staffed to send experts in all specialties to accident investigations, and safety initiatives previously funded by the Congress, such as our expanded human factors program, our new accident data system; and our increased laboratory analytical capability, have been stalled.

BUDGET CUTS

Recent budget cuts have reduced the Board's pipeline safety staff to only one investigator and one supervisor. As a result, the Board is being forced to raise the property damage threshold for its investigations from $150,000 to $500,000, and will be investigating significantly fewer accidents in the future.

It is difficult to quantify the safety impact of these reductions, since one cannot predict what accidents will or will not happen.

Nevertheless, an examination of our past accomplishments indicates that significant safety improvements will be lost. For example, our new criteria means that an accident such as the recent accident in Centralia, Mo., may not be investigated.

PROGRAM REDUCTIONS

Recent budget cuts have forced a 53-percent reduction in the Board's railroad field program, leaving us with only seven investigators in the field. The Board will continue to investigate all accidents which involve a passenger or crewmember fatality. However, as a result of the cutback, the Board is being forced to raise the property damage threshold for investigations from $150,000 to $500,000, thus drastically reducing the number of investigations.

FIELD OFFICE PERSONNEL REDUCTIONS

Senator ANDREWS. Why do you always cut the field force, which seems to be the working area, and maintain the number of personnel at headquarters, which seems to be where the deadwood is concentrated?

Mr. BURNETT. We have cut the headquarters personnel substantially. Our first round of reduction in force, which was accomplished before I became a member of the Board——

Senator ANDREWS. You said a minute ago that the cuts were going to be cuts in inspecting out in the field.

Mr. BURNETT. In the second round of cuts, we had to do so. We do our major investigations out of headquarters and we have to have a team of experts in headquarters to provide the kind of resources we need for the field. I don't believe we made any significant cuts in our field division in the first reduction in force that we were required to make. But when it came time for the second, we had to.

Mr. KISSINGER. And even in the second round, Mr. Chairman, 50 percent of the cuts were in headquarters.

Senator ANDREWS. Great. OK. That is highly unusual.

ADMINISTRATIVE LAW JUDGES

Mr. BURNETT. Along the same lines, Mr. Chairman, we have recently decentralized our administrative law judges, who were all located in Washington, and sent them out, so that we would save on travel funds. I certainly agree that we do not need to starve the field portion of our staff.

ACCIDENT INVESTIGATION

Last year the Board investigated some 200 accidents in which the property damage was less than $500,000. In many of these accidents, even though there was limited property damage, the Safety Board investigation developed safety lessons which will help prevent future catastrophes.

We hope to continue the investigation of significant safety issues, but obviously our ability to identify these issues in all cases will be reduced. The cutbacks will also mean that pedestrian-railroad, the so-called trespasser accidents, which kill between 250 and 300 people per year, will not be investigated.

RAIL FIELD PROGRAM

Field support for technical studies and efforts to insure implementation of safety recommendations will be reduced. The Board's reduced presence in railroad and transit safety come at a time when railroads are cutting corners to maintain competitiveness, while the Federal Railroad Administration is taking the view that safety regulation can be replaced by voluntary industry measures.

Clearly, as a result of the recent and past budget reductions, the Board will no longer be able to address all significant railroad safety issues.

NTSB/COAST GUARD INVESTIGATIONS

Recently the Coast Guard and the Safety Board agreed that the Board would conduct marine accident investigations involving the public and a nonpublic vessel. The primary motive for this change was to reduce duplication of effort and avoid the situation where the Coast Guard would be investigating itself.

The latter aspect drew strong criticism as a result of the accident investigations involving the Coast Guard cutters *Cuyahoga* and *Blackthorne*. Unfortunately, the Board has only 10 marine specialists to investigate all major marine casualties. Three vacancies have had to remain unfilled, and some 150 investigations are pending. The budget cuts mean that it may well be impossible to fully carry out the Board's responsibilities in the marine mode.

HIGHWAY FIELD PROGRAM

Recent budget cuts have forced a 44-percent reduction in the Board's highway field program. The Board will be able to keep only four investigators in the field. As a result, the Board will not be able to investigate all catastrophic highway accidents previously defined as those involving five or more fatalities, or three or more fatalities in a schoolbus.

The Board will no longer investigate as many accidents involving preselected subject areas, such as van safety, hazardous material truck accidents at railroad-highway grade crossings, and small car compatability.

Investigations will be more limited in scope, in some cases precluding a determination of probable cause. Most of the field highway investigations will be conducted in support of Board oversight evaluations and technical studies.

However, it will not be possible to support as many studies and special investigations, and those now in progress will be delayed. Highway safety, more so than any other mode. Safety improvements are achieved at the State and local level. With only four investigators, it will be impossible to maintain a reasonable level of liaison with State and local officials to encourage response to Board safety recommendations.

ACCIDENT RESPONSE TIME

Also, with the limited size of the field staff, it is likely that the Board will lose perishable accident data due to increased response time to major accidents. We have reached a critical level regarding the depth of expertise required to investigate major accidents.

TECHNICAL SPECIALISTS

Major aviation investigation requires persons highly specialized in aircraft structures and systems, powerplants, aerodynamics, maintenance, operations, air traffic control, weather, human factors, and flight recorder readout.

In most speciality areas, we have only two or three people, and in some we have only one. We seldom know at the outset of an investigation which of these areas will prove critical.

Moreover, when we are confronted with several concurrent investigations, as we have been recently, we are forced to shuttle staff from one investigation to another in an attempt to provide essential expertise.

I like to make the analogy to building a house. You need a carpenter, an electrician, a plumber, a mason, a roofer, et cetera. Their skills are not interchangeable. It does not matter how hard the others work, if you are missing one of these skills, you will never complete the house.

We simply cannot continue to do more with less. These cutbacks will mean fewer investigations, and investigations of more limited scope and fewer safety recommendations. The net effect is lost opportunities to deal with relevant safety issues which continue to cause accidents and needless loss of life and damage to property.

INDUSTRY CONFIDENCE

The confidence of the transportation industry in the Board's work will suffer as the level of our expertise declines in critical skill areas. The backlog of unresolved or incomplete investigations will grow, and challenges to Board decisions will become more frequent.

As emphasized earlier, the Board's effectiveness is dependent upon voluntary implementation of safety recommendations, and to lose the confidence of the industry is to significantly reduce the effectiveness of the Board.

HUMAN FACTORS

Pilot involvement has been a causal factor in approximately 85 percent of the general aviation accidents and 40 percent of the air carrier accidents. Because of the large percentage of accidents in which pilot involvement has been a causal factor, the Board initiated an expanded human factors program, to attempt to find solutions to these accident causes.

However, the expanded human factors program, begun in fiscal year 1981, has been substantially stalled, due to lack of resources this fiscal year. The Safety Board's human factors program is one of the most labor-intensive programs in the Board. Its investigative efforts range from medical aspects of crewmember performance, survivability factors, evacuation problems, physiological factors and vehicle crashworthiness, to the adequacy of crash-fire rescue efforts, community disaster planning, and the psychological aspects of human error or human performance.

In fiscal year 1981, the human factors program was expanded in an effort to investigate in more depth the area of vehicle crashworthiness and the area of human performance. The crashworthiness program called for an intensive investigation over a 2-year period of a select sample of fully survivable to marginally survivable accidents in an effort to corroborate past crashworthiness findings, and to establish a data base to support future recommendations.

The program had called for 10 additional human factors specialist positions, 5 of which were to come from internal personnel reallocations, and 5 through the fiscal year 1982 budget request. Only one position has been filled.

HUMAN PERFORMANCE

The human performance program, started in fiscal year 1980, to reduce operator-related causes of accidents, is also in jeopardy. At present this program is only a one-person effort, and the budget reductions have made it impossible to expand it.

LABORATORY

The Safety Board's Flight Data Recorder Laboratory and its Audio Laboratory are unique. No other U.S. Government agency has the capability to read flight data recorders and cockpit voice recorders. In 1981, new model digital crash recorders were installed on aircraft of several airlines. The Safety Board does not have the equipment to decode information from these recorders.

For example, a readout system for the new Sundstrand Data Control Universal FDR now installed aboard American Airlines B–727 aircraft, and a new readout system for the Fairchild digital FDR, now installed aboard Republic Airlines airplanes, will be required.

The Board's metallurgical laboratory has been active in aviation, pipeline, railroad, highway, and marine investigations. The lab is not duplicated by FAA or other DOT facilities.

SAFETY PROGRAM REDUCTIONS

It is important to note that reductions in the substantive safety programs described above were undertaken only after every avenue was explored and exploited to achieve management savings. These management savings are short-term fixes to solve the Board's immediate financial crisis, and were selected in order to preserve the Board's safety program. The long-term effect of continuing these reductions will be to impair the quality and quantity of Board safety products and ultimately the respect and confidence the transportation industry has in the Safety Board.

CLERICAL REDUCTIONS

Clerical positions have been reduced by over 30 percent since January 1980. These clerical positions were reduced in order to preserve the maximum number of investigative positions. However, the loss of clerical employees has reached a point of diminishing returns, because sufficient support cannot be given the investigative staff. Delays and backlogs in processing accident reports, safety recommendations, and other time-sensitive Board products will eventually compromise the impact of the safety message.

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The Board let go 83 percent of its temporary employees in January. Most of these employees were performing clerical duties to fill the reductions in full-time permanent clerical positions. This reduction has compounded the clerical support problem. Therefore, the total impact on the loss of clerical support from both permanent and temporary positions has been a reduction of over 40 percent.

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The management analysis function has been abolished. This function provided the Board with specific workload information upon which program and organizational realinements could be made.

Studies performed in the past, which have aided the Board's ability to absorb budget cuts, have resulted in decentralization of the administrative law judges to save travel costs, consolidation and reduction of secretarial functions, consolidation of field offices to save overhead and rental costs, and reduced rental of GSA vehicles in the field.

All Board employees were affected by the following: The payment of overtime was eliminated; funds available for employee awards in all categories were reduced 76 percent; and promotions were reduced by 50 percent.

All employees are scheduled to be furloughed at least 3 days in fiscal year 1982.

STAFF MORALE

These four actions are a severe disservice to the Board's single most important asset—its employees. These actions, coupled with RIF's, bumpings, and resulting organizational disruptions, have created severe morale problems which are affecting the quality and timeliness of Board investigations, studies, and other safety efforts.

We are unable to pay overtime to investigators who worked 15 to 18 hours per day, 7 days a week, on the Air Florida accident, while most other Federal workers working beside them were being paid overtime. Our employees are making considerable sacrifices, but the Board can neither promote them nor provide awards to outstanding individuals.

The end result of these actions, in effect, is to provide an incentive to our technical specialists and experts to seek other employment.

ADMINISTRATIVE TRAVEL

Administrative travel, which was reduced in previous cuts to only 5 percent of the Board's travel budget, has now been reduced further by 70 percent. This will effectively prevent the Board's technical experts from participating in safety symposia, presenting the Safety Board's viewpoints or conferring with other technical specialists in their field, where travel is necessary.

TRAINING

Training has been reduced by 75 percent. The only training undertaken to date in fiscal year 1982 has been to familiarize aviation field investigators with the new accident data system which significantly improves the crashworthiness/human performance data collected in investigations.

All other training has been reduced by 95 percent.

Remaining current in engineering, electronics, computer systems, and the multitude of other high-technology fields is a continual challenge to the Board. The Board cannot hire new employees to fill the gaps created by new technologies. Therefore, it is now even more important that investigators now onboard be provided even more training in these areas.

BOARD STAFFING

The Board is not currently staffed to perform all the duties prescribed in the Independent Safety Board Act of 1974. In lieu of specific guidance from the Congress or the President, the Board has unilaterally established priorities and will strive to its utmost to accomplish as much of its mandate as is possible.

FEDERAL ACCIDENT INVESTIGATION PROGRAMS

As an alternative to these budget reductions, the Safety Board proposed in its 1983 budget submission to OMB, that an examination be made of the Federal accident investigation efforts in the Department of Transportation and other agencies to determine the most effective and efficient way to accomplish Federal accident investigation responsibilities.

However, to date the Board has received no official response to this suggestion from OMB. The Board is confident that any objective appraisal would favor the Safety Board's programs, given its proven record for accomplishing major improvements in transportation safety without regulatory authority and with very few resources.

BOARD BUDGET REDUCTIONS

The Safety Board believes that this type of rational consideration is a viable alternative to continued reductions of the Board's budget. Further reductions will clearly result in eliminating program areas which the Congress has directed the Board to undertake.

Even more important, continued reductions run the risk of seriously eroding the transportation industry's and the public's confidence in the Safety Board and its ability to make viable safety recommendations. The Board is now in real danger of slipping below the critical level of staffing which allows it to conduct independent investigation and analyses of accidents and their causes.

Mr. Chairman, we are committed to the most effective and efficient use of all resources available to us, and we can assure the Congress and the public that we will deliver the greatest possible contribution to transportation safety.

We would be happy to answer any questions you may have.

Senator ANDREWS. Thank you.

DISASTER PREPAREDNESS

In your opinion, based on recent experience, how would you characterize disaster preparedness here in Washington? That's a point you touched on very briefly at the beginning of your statement. You were talking about Air Florida's ability to handle the rescue effort. Actually, it isn't Air Florida's ability that matters, it's the city of Washington's ability. Have you come up with any new ideas on how the city might better put together this kind of rescue capability? Have you made any recommendations?

Mr. BURNETT. We have not made any recommendations to date on crash/fire rescue coming out of the Air Florida situation. As you know, we classified it as a nonsurvivable accident, and there was not a great deal of information coming from the accident itself that shed light on the ability of Washington National Airport or the Washington community to handle a disaster such as this.

ACCIDENT SURVIVABILITY

Senator ANDREWS. How do you classify it as nonsurvivable when there were survivors?

Mr. BURNETT. Well, this is a question that frequently arises. Sometimes people survive a nonsurvivable accident.

Senator ANDREWS. Well, it is a question.

Mr. BURNETT. Basically, the criteria that the human factors people and the Board used is that if the integrity of the fuselage is not maintained, if it breaks up, then you have a situation that is not survivable.

If the integrity of the fuselage is maintained, then given adequate seat structure and adequate design of the cabin interior, you have an accident which should be survivable.

DISASTER PREPAREDNESS

Senator ANDREWS. How does that affect the way the city responds? You know, we're told in all the news media that there was one individual whose life could have been saved if somebody would have gotten there in a helicopter any time during the first 25 to 30 minutes. It's appalling that the accident happened 30 seconds away from the Pentagon, where we have all those helicopters, and there was no standard operating procedure, no ability to contact them. I suppose the city doesn't have any communications equipment?

Mr. BURNETT. These are areas that the Board is looking into in its investigation. As you know, we have made no formal findings on any aspect of the Air Florida investigation.

Senator ANDREWS. I am well aware of that, but you must have some standard operating procedure that falls into place in each of the airports in this country.

Mr. BURNETT. Well, we have a standard that we investigate that aspect of the accident——

AIRPORT CRASH/FIRE/RESCUE

Senator ANDREWS. Don't you have a standard operating procedure set up for almost every airport in the country, as far as crash and rescue vehicles, fire vehicles, and all the rest is concerned?

Mr. BURNETT. The Federal Aviation Administration requires this; yes.

Senator ANDREWS. Did you find that National Airport at the moment of the crash was in violation of any of those procedures?

Mr. BURNETT. We have made no findings yet, Senator.

Senator ANDREWS. How long does it take to find out whether they violated the procedures?

Mr. BURNETT. Well, any findings and conclusions of that nature will be made by the Board in its final determination when the report is issued, and we are not at that stage of our investigation at this point, and it would, I think, prejudice my position if I were to make any comment now.

AIR FLORIDA SURVIVABILITY

Senator ANDREWS. You have already listed the Air Florida crash as nonsurvivable. Have you determined then that all of the individuals were killed by the impact, rather than by drowning?

Mr. BURNETT: There was one that was killed by drowning.

Senator ANDREWS. I mentioned that before. But all the other individuals were killed by the impact?

Mr. BURNETT. That's the report of the coroner and the human factors experts.

Senator ANDREWS. No water in the lungs of any of the other victims?

Mr. BURNETT. I don't think that we are saying that. As I understand what the investigators are saying when they report that only one died by drowning, is that all the others suffered traumatic injuries, and there may have been some that lived long enough to ingest water. They would have died from the result of the impact, anyway.

AIR FLORIDA—SEAT STRENGTH

Senator ANDREWS. Did they all suffer traumatic injuries becaue Air Florida's seats were not strong enough to protect them in such a crash?

Mr. BURNETT. No, sir. The press has suggested that, but the relevance of the seat structure—and that's very important and we are glad that there is being so much attention focused on that, because we need great improvements in the structure and integrity of the seats—that really only becomes relevant when you have a floor that the seat can attach to. In this case, the floor was broken up.

AIR FLORIDA SURVIVABILITY

Senator Andrews. Well, a crash occurred into the water when the aircraft was at a fully stalled-out speed. My thinking is that you cannot have a much better opportunity to have survivors than in a crash where you are below your stalling speed and you go into the water.

Mr. Burnett. We frequently find accidents, Senator, in which the fuselage remains basically intact. In this case, the fuselage caved in, and the floor was broken up. So there was not anything for seats to attach to.

Now, as to what——

Senator Andrews. The floor was broken up in the total fuselage?

Mr. Burnett. Well, there were portions of it that were recognizable, and there were other portions of the fuselage that were not recognizable as a fuselage.

WASHINGTON NATIONAL AIRPORT RESCUE OPERATIONS

Senator Andrews. Did the fuselage floor break up at the time of the accident, or break up when you guys were probing around with your cranes to pull it out? I suppose you are going to have indications when you complete your report and the Board sits down and digests it. But how would the response have been different on the part of the Washington National Airport if it had been a survivable crash?

Let's say there are 65 people alive in that fuselage. You still would have had only about four or five survivors. I don't think the question is whether the floor broke up or anything else. The point is, do you have a set of procedures that are supposed to be followed for rescue operations at an airport like Washington National? And were they in compliance?

I would hate to be on a survivable crash, given the procedures that were put into play within an hour of that crash.

Mr. Burnett. Yes, sir, that has been an area that we have explored in our hearing, which has just been completed. We are now in the process of analyzing that information, including the aspects of the rescue preparedness of the Washington National Airport and also of the Washington community in general. But the Board does not have any findings at this time. That will be something that we have to analyze very carefully and report and deliberate responsibly, and at this point I do not have an answer for you. It will be forthcoming in our report.

ACCIDENT SURVIVABILITY

Senator Andrews. At what point is an accident classified as survivable or nonsurvivable?

Mr. Burnett. Basically if the g forces are under the level that the human body can withstand, and the integrity of the fuselage is maintained, then it's considered to be a survivable accident, whether people survive or do not survive.

We classify an accident as survivable sometimes when the people do not survive, because they could have if the aircraft had been appropriately designed, within the known technology.

We also classify accidents as nonsurvivable when sometimes by happenstance some people do survive it.

STAFFING REDUCTIONS

Senator ANDREWS. Because of the staffing levels in the agency which are, according to your budget justification, particularly acute in the aviation area, we understand that you have had to double up investigators on major accidents. You noted to us that some specialists were required to work the Air Florida and World Airways accident simultaneously. I think they must be fantastic people if they can manage to work simultaneously in Boston and Washington, D.C.

How much time is required for these specialists to spend on each major accident of this type, and how do they do it, when they are spread 250 miles apart?

Mr. BURNETT. I'd like to refer that question to Mr. Kissinger.

Mr. KISSINGER. Well, I think the people we are talking about in terms of working two investigations simultaneously are people, for instance, in our laboratory who actually do the work in Washington. We are not obviously talking about having people separated miles apart. In some cases, we sent investigators who were on the Air Florida investigation to Boston, so they had to leave the Air Florida work to start the work up in Boston. They were working two cases at the same time.

ACCIDENT INVESTIGATION SELECTION

Senator ANDREWS. What sort of criteria do you use to select the accidents which will receive an investigation? You mentioned a moment before that it was the ones in which a fatality occurred.

Mr. BURNETT. We are mandated in all aviation accidents, Senator, by the Independent Safety Board Act to conduct investigations. We delegate some of those to the FAA. We have never had the resources provided for us to do all of it ourselves.

A major investigation involves any time we have an accident in air carrier operations. We normally do a major investigation even where there would be no fatality involved. For instance, we are now investigating the Air Florida incident in Miami in which there was some similarity to the accident in Chicago, which was the last domestic major aircraft catastrophe.

Senator ANDREWS. The DC-10?

Mr. BURNETT. That's correct. And we are investigating that, even though there were no fatalities involved. We investigated Boston before we knew that there were fatalities. At the time we initiated our investigation, it was not known that there were any fatalities, and we sent a team to Philadelphia to an air carrier accident in which there were no fatalities. So we get into those, and we even investigate what we classify as incidents sometimes, which are not really accidents.

GENERAL AVIATION ACCIDENT INVESTIGATIONS

Senator ANDREWS. What about general aviation accidents?

Mr. BURNETT. We investigate all of them in which there are fatalities, and we make a probable cause report on all general aviation accidents. But many of those we delegate to the FAA.

However, under our latest arrangement with the FAA, we are taking on many of those ourselves and doing many more of them than we previously have done.

COMPUTER DATA SYSTEM

Senator ANDREWS. In other words, you do get information on the accidents that don't receive an investigation, so that where you find some safety factor inherent in the structure of the airplane, you can be apprised of that, so you can prevent fatal accidents?

Mr. BURNETT. Yes; we initiated just recently a new computer based data system in which we hope we may be able to milk additional safety information out of those general aviation accidents. We think that the old habit of looking at one accident and saying, "What does this tell us, safetywise," may be inefficient when we can look at the corporate mass of all accidents and get many times the safety information statistically that we couldn't get from one accident.

AIR FLORIDA ACCIDENT

Senator ANDREWS. How many individuals, for instance, do you have working on the Air Florida crash?

Mr. BURNETT. About 15. It's different at different times. We put them on and withdraw them. We had 10 groups organized there initially, and each one was led by a Safety Board person, and then we had, I think, 3 or 4 other groups that have been formed since then, and we had an investigator in charge, so that's 15 right there, and then there, of course, were other people who provided assistance and support.

Senator ANDREWS. How many people did the FAA have there?

Mr. BURNETT. Offhand, I cannot answer that. Mr. Kissinger, do you know?

Mr. KISSINGER. No.

Senator ANDREWS. More than you do, probably.

Mr. KISSINGER. At least as many, I'm sure.

AGENCY COOPERATION

Senator ANDREWS. The point is, obviously, are you cooperating and enhancing each other's efforts? Or are you tripping over each other?

Mr. BURNETT. We have to have their assistance and, of course, by law they are a party in every investigation that we conduct. We need their assistance as we need the assistance of the other parties. We do not have enough personnel to conduct an independent investigation, nor do we believe it's advisable to do so totally without participation of the other parties. We lead the investigation, and the party system historically has worked well.

I do not believe, from my observation of the Air Florida investigation, that we were ever tripping over each other. In fact, I think we had a very excellent working relationship.

FEDERAL ACCIDENT INVESTIGATION EFFORTS

Senator Andrews. You proposed to OMB that a joint review of all Federal accident investigation programs be done in order to identify the programs which should be consolidated. Have you done any preliminary work in this area to identify the programs that could be consolidated within your Board? And if so, what are these programs and in which agencies are they currently located?

Mr. Voorhees. Mr. Chairman, there are two areas. First of all, as you may be aware, the Safety Board recently made arrangements with the Coast Guard where there is a Coast Guard involvement in an accident, such that the Board will step in and lead the investigation. That was one situation where it was felt that an agency should not be investigating itself.

Also, we agreed with the FAA that we should take over some of the accidents that they were previously investigating which did not involve a fatality, but which may have involved certain safety issues. So there is a continuing look at and evaluation of these circumstances when they do arise.

Our primary thought with the proposal to OMB was that there should be an overall effort made to review all DOT investigative activities to see where some economies might be made and resources shifted from one area to another.

Our feeling was that given the Board's impact and efficiency and known reputation for conducting thorough investigations, it obviously would tip in our favor if there were resources available. This was before we had the decrease in total resources.

AGENCY COOPERATION

Senator Andrews. How do you perceive yourself? Are you investigating the investigators?

Mr. Burnett. Yes, sir.

Senator Andrews. Do you have a series of investigators out in the field? Do you assume top-dog attitude?

Mr. Burnett. There is an element of that; yes. We join with them, and in aviation, it's by law that they have a role to play in each one of our investigations. They are designated as parties. Of course, that is a large part of our function. We investigate the regulators. If there is an issue concerning the performance of the regulatory agency which arises in the investigation, and frequently there is such an issue, then because we are independent, we have the duty to comment upon their performance.

They have the regulatory function. If there is an enforcement issue, for instance, if the situation calls for the punishment of some individual for violating a Federal regulation, we do not do that, but the modal agency, the FAA, or the Coast Guard, does and they have an investigative function for that reason.

However, we feel that within this theory of our independence and keeping us out of the enforcement field, we might be able to do more efficiently a larger portion of the investigation.

AIR TRAFFIC CONTROL

Senator ANDREWS. As I understand it, you have been involved in monitoring the rebuilding of the air traffic control system, and you have an initial study of the system in which you concluded that a high level of safety is possible to achieve. That sounds almost as wonderful as some of the statements a Senator makes. The Board went on to make recommendations regarding controller fatigue, reducing workloads, standardization of practices, and other related areas. How well has the FAA been following these recommendations? Can you give an update on your assessment on how well safety concerns are being met during the rebuilding process?

Mr. BURNETT. We have not been able resourcewise to maintain a continuing investigation of that. We hope to look at it again. The study that we made, which was issued in December, was sort of a still photo of the situation as we thought it then existed, and what we were saying was the system basically is safe. There are some important considerations we thought the FAA needed to give attention to, but we have no ability to say right now what the situation is, except we are going to give another look at it down the road, if the Board agrees, and I certainly believe we need to.

AIR TRAFFIC CONTROL FOLLOWUP

Senator ANDREWS. You monitored the whole control system for airplanes, and you say that more could be done to assure safety. Shouldn't you be providing constant updates instead of sitting back for a few months?

Mr. BURNETT. We are looking at ATC involvement in every accident that we investigate, and that includes Air Florida, but yes, I agree we should have an ongoing investigation. We should be looking over their shoulder constantly, but we do not have the resources.

SAFETY OF ATC SYSTEM

Senator ANDREWS. But as far as the air traffic control system goes, you are satisfied with its safety at the present time?

Mr. BURNETT. Well, what we said was that we thought that it could be operated safely if they maintained flow control and limitations on the volume of the traffic.

Senator ANDREWS. Are they?

Mr. BURNETT. So far they are. I think that's our big concern. At some point if they try to rush getting back to the status quo ante, then we may have problems.

ATC INVESTIGATION FOLLOWUP

Senator ANDREWS. We heard that answer a moment ago, but then you went on to say that you're going to take another look at it in 5 or 6 months.

Mr. Burnett. I think we should.

Senator Andrews. You certainly should. I'm amazed that you think things are going good and you're going to take another look at it 6 months down the line. I would think there ought to be some constant monitoring. It's that important.

Mr. Burnett. I also think there should be some constant monitoring.

Senator Andrews. A lot can change in 6 months. Since you investigate the investigators, that's a long time.

Mr. Burnett. We simply just do not have the resources.

Senator Andrews. Well, you've got to prioritize where you put your resources.

Mr. Burnett. That's right, and that's what we've had to do. We might have already taken another look at ATC if we hadn't had the Air Florida accident.

Senator Andrews. Then the point almost has to be that you are satisfied that the system is working. I don't see how you can say we're holding off for 6 months until we take another look at it, unless you are absolutely satisfied on how the system is working between now and 6 months from now. I can't imagine that we are waiting 6 months to take another look at it without the caveat that we have taken a close enough look, we are satisfied it's on track, and it's going all right.

Mr. Burnett. We took a look, a study which terminated in December, and I am not satisfied with that. I will grant you that I'm not satisfied, and I think we need to look at it again. We do not have the resources to do so.

FAA COOPERATION

Senator Andrews. Has the FAA been cooperating with you?

Mr. Burnett. Yes; generally, they have, and we have been monitoring their statistical reports about what they were doing, but we have not been able to continue the kind of intensive investigation that we did between August and December, and we need to do that again. I hope as chairman, if the Board members agree—and it takes an agreement of the entire Board to initiate a special study—that we will take another look at it in a few months, and in the meantime we will do what our resources permit us to do.

AIR TRAFFIC CONTROL

Senator Andrews. Maybe I'm making a mistake, but from where I sit, I would think that in the order of priorities, monitoring the safety of the air traffic control system has a lot higher priority than investigating the Air Florida crash. That's already happened, and nothing is going to change. If you slip the results from that 2, 3, or 4 months, because you've got less manpower working on it, it's not going to affect anything. But for you to sit and say we don't have enough people to keep tabs on the ongoing safety of the basic air traffic control system is rather an appalling thing to hear.

Mr. Burnett. The best way we have to judge the performance of the air traffic control system is to look at the accidents occurring and see if there is ATC involvement. So we are mandated by Congress to investigate all aviation accidents. We do not have the right, in my view, to fail to do that.

Senator ANDREWS. But you've been asked to check into the safety of the air traffic control system, and you are now telling a Senate subcommittee that the best way of monitoring it is to wait and see what accidents happen.

BOARD PRIORITIES

Mr. KISSINGER. Mr. Chairman, if I might add something with respect to priorities, I think in general the way our agency views priorities is that the first priority is to send a team on scene, because the on-scene investigation portion of the accident has to be done immediately. You cannot defer that kind of activity.

Second, we place the next highest priority on urgent safety recommendations we want to get out immediately to prevent future loss of life.

And then, third, we like to get immediately into studies, recommendation followup, and pure oversight. With respect to the air traffic control situation, we currently have two air traffic control specialists at the Board, and in this past period of these last couple months, those people have been tied up almost full time with respect to ongoing investigations, and they simply have not had the time to devote to continued everyday oversight with respect to the operation of the air traffic control system.

AIR FLORIDA RECOMMENDATIONS

Senator ANDREWS. You just said one of your first priorities and the reason you put people on the scene of an accident right away is to get recommendations. What recommendations have you come up with from the Air Florida crash?

Mr. BURNETT. We made a set of 10 recommendations, Senator, and we did so a couple of weeks after the Air Florida crash. We have a copy of them here. Several of them we listed as urgent recommendations and others as taking a priority action, which is a little bit more long-term type.

Most of them had to do with weather, operating conditions, and——

Senator ANDREWS. They are the listing that you set forth on the operation of aircraft in snow and icing conditions, as I understand it.

Mr. BURNETT. That's right.

Senator ANDREWS. Did they differ significantly from the memo or the operation notice that Boeing sent out 1 or 2 months before?

Senator ANDREWS. Some of them go beyond the Boeing memo. We included that basic kind of approach, without quoting the Boeing situation, because it dealt with somewhat a different situation, but it was related.

Senator ANDREWS. Well, did you change the basic recommendations that I thought have always been around, that is you don't take off if you've got ice on your wings?

Mr. BURNETT. No; what we suggested the FAA should do was reemphasize the dangers of ice on the wings and the characteristics of anti-icing procedures.

Senator ANDREWS. So you came out of the investigation and restated the fact that you don't take off with ice on your wings.

Mr. BURNETT. We went beyond that. We asked the FAA to adopt additional regulations which required an actual, visual inspection by the flight crew, which is not required now. They are not permitted to take off with ice on their wings, but there is no specific requirement that the crew inspect.

AIRCRAFT ICING

Senator ANDREWS. Well, what is that going to change? As I recall the Air Florida cockpit conversation, which the NTSB supplied to me, the pilots knew they had ice on their wings; in fact, they were talking to each other about the ice on the wings and the desirability of having a couple of glycol trucks sitting out there like a car wash, to wash them off, but they didn't really want to take the time to lose their place in line.

So, you know, visual inspection wouldn't have done any good, given the set of circumstances that Air Florida operated under on that day, would it?

Mr. BURNETT. We were delighted to supply you with the CVR transcript. Perhaps if the crew had gone to look, they might have been more impressed with the icy conditions. We have not made a conclusion yet. There is some dispute about whether they saw ice on their wings or some other vehicle, and I think the Senator probably read it correctly, but not everyone is in agreement on that.

The fact was, though. that there was a whole line of planes waiting to take off at Washington National that day, all of them suffering the same weather conditions. Perhaps Air Florida had not been deiced as effectively as some of the others.

Senator ANDREWS. Did you find that Air Florida did not give the deicing crew or specialists the full amount of time that they wanted to deice?

Mr. BURNETT. No; that has not been our finding. We had hearings on that last week, and I have not had an opportunity to study the hearing record.

Senator ANDREWS. In other words, you found that when they subjected themselves to deicing, they did not cut short the amount of time that the deicing crew was working?

Mr. BURNETT. I have made no finding one way or the other, and the Board has not.

Senator ANDREWS. Never mind the finding; those were the facts. You must have heard that.

Mr. BURNETT. Well, the hearing was conducted by Member McAdams. I was not present, and I have not had the opportunity to study the record. That hearing was 2 weeks in length and concluded on Friday, and that would be one of the duties that the Board will have before we make formal findings.

RAIL RAPID TRANSIT RECOMMENDATIONS

Senator ANDREWS. To get to rail transit, based on a 1980–81 special investigation of major fires on the New York City subway system, the Board recommended the establishment of independent safety oversight at the State or local level, as well as broadened authority for the Urban Mass Transportation Administration to detect safety hazards on rail rapid transit systems throughout the country. Have any of these recommendations been adopted?

Mr. BURNETT. Mr. Kissinger.

Mr. KISSINGER. Mr. Chairman, specifically we have had some encouraging results at the Federal level. The Urban Mass Transit Authority has provided indications to us that they are going to pay closer attention and give higher priority to safety.

Senator ANDREWS. I didn't ask for indications, I asked, had any of these recommendations been adopted.

Mr. KISSINGER. To the best of my recollection, none of the recommendations have been closed. Some of those are in an open, acceptable action status, and we have indications that they are moving toward a solution that would be satisfactory to us.

RECOMMENDATION ADOPTION

Senator ANDREWS. Well, now, this was a year and a half ago when you came up with these recommendations. You are telling us now that none of your recommendations have been adopted by the transit systems around the country. What good does it do to invest the money in your Board to come up with these recommendations, if the recommendations aren't adopted?

You've come up and told us that to the best of your knowledge none of those have been adopted.

Mr. BURNETT. Well, for instance, Mr. Chairman, about 80 percent of the recommendations we make to the Federal Aviation Administration are adopted, but we have no way of guaranteeing that any——

Senator ANDREWS. We're not on FAA now.

Mr. BURNETT. I know.

RAIL RAPID TRANSIT SAFETY

Senator ANDREWS. Let's give them an A for effort, they're doing well in that regard. You made these recommendations on subway systems and rail rapid transit, and now you are telling me a year and a half later none of them have been adopted. What's your current assessment then of the state of rail rapid transit safety?

Mr. BURNETT. I think it's a comparably safe system, but needs great improvement, and the potential for——

Senator ANDREWS. Again, spoken like a Senator. [Laughter.]

"A comparably safe system that needs improvement."

Mr. BURNETT. The potential for catastrophe on a rapid rail transit system is such that it would dwarf the kind of catastrophe we had on January 13 with Air Florida, and I think that the Safety Board's posture needs to continue to be very demanding on system operators, that they make the improvements that we think they need to make.

If we are very demanding, we have to assume that we are going to set a standard beyond which they are apt to readily reach.

RAIL RAPID TRANSIT RECOMMENDATIONS

Senator ANDREWS. But if your recommendations are not adopted, what good are they?

Mr. BURNETT. If they are adopted 5 years from now, and we begin the effort now, and if in the process we save some lives, it will be worthwhile.

Senator ANDREWS. But 5 years from now is a long time.

Mr. BURNETT. Certainly it is.

RECOMMENDATION FOLLOWUP

Senator ANDREWS. Out in North Dakota in the range country, if we buy a bull and put him out with a herd of heifers and he doesn't drop some calves between now and next year, he's going to be made into hamburger. And you're saying you're going to wait for 5 years?

Mr. BURNETT. No; we're not saying we're going to wait. We have done our duty now and we are going to continue to press the adoption of our recommendations. Unfortunately, we cannot act unilaterally. We have to have the cooperation of the operators of the rail rapid transit systems.

Senator ANDREWS. What sort of monitoring systems do you use to track whether or not your recommendations are adopted?

Mr. BURNETT. We have a small staff to follow up recommendations. In fact, I can give you percentages of acceptance by each mode. We follow up on each one of the recommendations, and we close them out. When a recommendation is closed by acceptable action, it means it's been adopted, and all we have asked for has been done. Some we hold in the status of open, acceptable action. That means that they are making progress. Some actions cannot be completed within 2 or 3 months. It will take 1 or 2 years or long-range planning.

Senator ANDREWS. Or 5 years.

Mr. BURNETT. Well, or 5 years.

RAIL RAPID TRANSIT RECOMMENDATIONS

Senator ANDREWS. Why don't you provide for the record what has happened in the case of the question I asked you earlier, when you made the recommendations based on the study a year and a half ago. None of them have been implemented so far. Detail for the record the steps that you are going to take to see that these recommendations are implemented.

Mr. BURNETT. We'll be glad to do that.

Senator ANDREWS. If you'd also outline what powers of persuasion or other type of coercion you have for the record, we'd appreciate it.

[The information follows:]

The National Transportation Safety Board has investigated and reported on rail rapid transit system fire safety in two recent efforts. On January 22, 1981, the Safety Board adopted its Safety Effectiveness Evaluation of Rail Rapid Transit Safety. This overall evaluation included a discussion of the responsibility for safety oversight of rail rapid transit systems and a conclusion was drawn that "Safety oversight capability at the state and local levels is virtually nonexistent. Where it does exist, the lack of safety guidelines or safety standards to measure and evaluate safety performance allows oversight agencies to do little more than react to accidents as they occur." The Safety Board issued 18 safety recommendations to the Urban Mass Transit Administration (UMTA) as a result of this Evaluation and the current status of the recommendations are as follows:

> In cooperation with rail rapid transit authorities and local fire officials, immediately survey the facilities, communication systems, fire safety and other emergency equipment, and emergency plans of existing rail rapid transit systems to determine their capability for evacuation of passengers under various operational and passenger load conditions. (Class I, Urgent Action) (R-81-3)
>
> STATUS: Open - acceptable action
>
> Establish procedures to consult organizations, such as the United States Fire Administration, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Fire Protection Association, and employee unions, as appropriate, in addition to the American Public Transit Association and individual transit properties, in developing Federal guidelines for car and tunnel design, safety equipment requirements, training programs (including emergency response) and other appropriate safety areas. (Class II, Priority Action) (R-81-4)
>
> STATUS: Closed - acceptable action
>
> Make appropriate organizational changes to provide for more direct consideration of safety issues in the formulation of the Administration's rail rapid transit policies and priorities. (Class II, Priority Action) (R-81-5)
>
> STATUS: Open - unacceptable action
>
> Establish, on a priority basis, Federal guidelines for the elimination or minimization of combustible and toxic gas and smoke-generating materials in existing rail rapid transit cars. Wherever possible, adherence to these guidelines should be made mandatory as a condition of Federal financial assistance. (Class I, Urgent Action) (R-81-6)

STATUS: Open - acceptable action.

In cooperation with rail rapid transit authorities and local fire officials, assess the need for modification or retrofit of existing rail rapid transit cars to reduce the potential for the exposure of combustible or toxic materials to fire. (Class II, Priority Action) (R-81-7)

STATUS: Open - unacceptable action.

Include in Federal financial assistance to rail rapid transit systems an ability to provide funding for acquisition of emergency equipment and for periodic inspection, maintenance, and testing of such equipment after it is installed. (Class II, Priority Action) (R-81-8)

STATUS: Open - acceptable action.

Develop and publish for public comment a comprehensive, 5-year plan for rail rapid transit safety oversight of new rail rapid transit systems as they are developed and for improving the safety of existing systems. (Class II, Priority Action) (R-81-9)

STATUS: Open - unacceptable action.

Develop and publish for public comment a comprehensive, 5-year plan for rail rapid transit safety research and development. (Class II, Priority Action) (R-81-10)

STATUS: Open - unacceptable action.

Establish a process, based upon testing and evaluation in accordance with such criteria as the Administration shall establish, for the certification or identification of specific products and materials used in the construction of rail rapid transit cars as meeting minimum safety standards or guidelines, and provide this information to rail rapid transit authorities on a regular basis. (Class II, Priority Action) (R-81-11)

STATUS: Open - unacceptable action.

Develop and publish for public comment a formal plan for the review, evaluation, and certification of rail rapid transit system safety plans. (Class II, Priority Action) (R-81-12)

STATUS: Open - acceptable action.

Establish a fire safety research and testing program to assess the combustibility and toxic gas and smoke generation of materials used in the contruction of rail rapid transit cars and to evaluate the fire safety of rail rapid transit cars through full-scale testing. (Class II, Priority Action) (R-81-13)

STATUS: Open - acceptable action.

Offer to assist and cooprate with the United States Fire Administration in its development of a national training curriculum for fire service personnel involved in the administration of fire protection on rail rapid transit systems. (Class II, Priority Action) (R-81-14)

STATUS: Closed - acceptable action.

Develop Federal guidelines for training programs for rail rapid transit xmployees, to include actual performance, under simulated conditions, of the duties they may be required to perform in the event of a fire or other emergency. (Class II, Priority Action) (R-81-15)

STATUS: Open - acceptable action.

Conduct research to determine the most effective means of informing rail rapid transit passengers of the actions to be taken in the event of an emergency, the location of emergency equipment, and the means of operating vehicle exit doors, and promulgate Federal guidelines. (Class II, Priority Action) (R-81-16)

STATUS: Open - acceptable alternate action.

Study and evaluate the need for fire suppression systems on new rail rapid transit vehicles and conduct research and development, and develop and promulgate Federal guidelines if so indicated. (Class II, Priority Action) (R-81-17)

STATUS: Open - acceptable action.

> Require rail rapid transit authorities to have a formal, continuing process for including local fire and emergency medical service officials in reviews of fire and life safety considerations during system planning, design, construction, and oepration. (Class II, Priority Action) (R-81-18)
>
> STATUS: Open - unacceptable action.
>
> Include local fire and emergency response services in onsite reviews performed by the Administration of new and existing rail rapid transit systems. (Class II, Priority Action) (R-81-19)
>
> STATUS: Closed - acceptable action.
>
> Until such time as comprehensive, formal safety standards have been established for rail rapid transit, publish an annual report assessing the degree of conformance or nonconformance of rail rapid transit systems with each Federal safety guideline established by the Administration. (Class II, Priority Action) (R-81-20)
>
> STATUS: Open - unacceptable action.

The subject of rail rapid transit safety was further pursued by the Safety Board in the adoption, on September 22, 1981, of a Special Investigation Report "Eight Subway Train Fires on New York City Transit Authority (NYCTA) With Evacuation of Passengers." As a result of the NYCTA subway fire special investigation report, the Safety Board issued, on December 30, 1981, 16 new safety recommendations to the NYCTA, DOT, UMTA, and the State of New York. In this case, we specifically recommended that the Governor of New York:

> Initiate legislative and/or executive action to authorize a new or existing independent agency to oversee and regulate the safety of the New York City Transit Authority. (Class II, Priority Action) (R-81-116)

As of March 30, 1982, this recommendation has not been responded to. The remaining 15 recommendations are as follows:

> -- to the New York City Transit Authority:
>
> Establish a systemwide program of initial and recurrent training for car repairmen, car inspectors, maintenance foremen, and quality assurance personnel. (Class II, Priority Action) (R-81-103)
>
> Reduce the current 10,000-mile interval between quality assurance of subway car inspections. (Class II, Priority Action) (R-81-104)

Increase maintenance surveillance and enhance quality assurance of subway car inspections. (Class II, Priority Action) (R-81-105)

In conducting "hands on" training of employees for responding to emergencies, assign top priority to the training of motormen and conductors. (Class I, Urgent Action) (R-81-106)

Provide training to motormen and conductors to enable them to evaluate emergencies, communicate vital information immediately to appropriate authorities, and ascertain when conditions require the immediate evacuation of passengers. (Class II, Priority Action) (R-81-107)

Provide at conspicuous places in all NYCTA subway cars, instructions for passengers on what to do in the event of an emergency, including how to escape from burning cars, the location of emergency telephones, ladders and fire extinguishers, and how to exit safely from a tunnel under fire and/or smoke conditions. (Class II, Priority Action) (R-81-108)

Provide at least two fire extinguishers, one at each motorman and conductor position, in all subway trains. (Class I, Urgent Action) (R-81-1090

Prohibit the introduction of untried or untested equipment into passenger service. (Class I, Urgent Action) (R-81-110)

Clarify to Command Center personnel the importance of notifying the fire department immediately when a fire is detected or suspected. (Class I, Urgent Action) (R-81-111)

Revise NYCTA emergency procedures to prevent the dispatch or operation of a train with revenut passengers aboard into an area where there is an emergency involving fire and smoke. (Class I, Urgent Action) (R-81-112)

Relocate the main airbrake line of subway cars away from the motor control gropu to reduce the possibility of rupture in the vent of a motor control group fire. (Class II, Priority Action) (R-81-113)

In subway cars having an air-activated motor control group cam, modify the air lines to provide a means of preventing the unrestricted flow of air in the vent they are ruptured. (Class II, Priority Action) (R-81-114)

Revise the NYCTA automated management information system to provide sufficient detailed information to permit analysis of the incidence and causes of failures or malfunctions of equipment which may affect the safety of passengers. (Class II, Priority Action) (R-81-115)

-- to the U.S. Secretary of Transportation:

Propose legislation to amend Section 107 of the National Mass Transportation Assistance Act of 1974 to substitute, for the Secretary's authority to investigate unsafe conditions in federally-funded mass transit systems, the authority to investigate any mass transit accident or incident in such systems, or any condition which affects or could affect the safety of passengers. (Class II, Priority Action) (R-81-117)

-- to the Urban Mass Transportation Administration:

Establish procedures to monitor, evaluate, and assure that approved plans to correct unsafe conditions are carried out by transit authorities and that no changes in the plans are approved or made without adequate evaluation. (Class II, Priority Action) (R-81-118)

As of March 30, 1982, the Safety Board has received no response regarding the above-mentioned recommendations

The National Transportation Safety Board's enabling legislation, the Independent Safety Board Act of 1974, (P.L. 93-633), gives the Board no sanctions to use when an addressee does not respond to a safety recommendation. Section 307 of the Act, "Responses to Board recommendations" addresses only those recommendations issued to the Department of Transportation and its Administrations; other Federal Government agencies, State and local government, professional associations, private companies, universities, etc., to whom a large percentage of our recommendations are addressed, have no legal requirement to even respond. The Safety Board will continue to work with UMTA to encourage the agency to complete the work begun, and we will make further efforts to pursuade UMTA to reconsider its view on those recommendations which are classified unacceptable. This will be accomplished through letters, meetings, and future reports on rail rapid transit accidents.

In addition, the Safety Board does employ other persuasive efforts to obtain positive responses to our safety recommendations. These are:

-- publication of responses and Board evaluations of these responses in the Federal Register for public view. (This effort has been drastically cut back in recent months due to excessive cost.)

-- Reports on acceptance of recommendations through the Board's annual report to Congress.

-- Discussion of responsiveness of various agencies before Congressional committeees.

-- Prompt evaluation of responses received and timely reply informing the agency of the Board's evaluation.

-- Followup letters to those who fail to respond.

-- Past responses and actions re used in new investigations and reports when pertinent issues arise on an "I told you" basis.

Probably the greatest impetus to initiate action is publicity in the news media regarding safety issues.

These activities give the Safety Board the leverage needed to get a high percentage of its recommendations acted upon in a positive manner. Of the 4,376 safety recommendations issued in all modes, (as of March 1982) 2,111 (48.2%) have been fully and acceptably implemented; another 760 (17.4%) are being acceptably pursued; and 758 (17.3%) are awaiting responses or are being evaluated by the Board. An overall, long-term acceptance rate of 65.6% is a good investment.

WASHINGTON METRO RECOMMENDATIONS

Senator ANDREWS. Has the Board made any recommendations yet regarding the training, management, or operational procedures for Washington Metro system, based on that accident last January?

Mr. BURNETT. We have recommendations that are under consideration now. There may be recommendations issued this week.

Senator ANDREWS. Do you expect the Washington Metro system to follow those?

Mr. BURNETT. We hope that they will.

Senator ANDREWS. Because they're more enlightened than the other metro systems that don't follow your recommendations?

Mr. BURNETT. Senator, sometimes the best way to get recommendations adopted is to have a catastrophic accident, because it focuses public attention on that, and the public is the one that achieves the safety recommendations.

Senator ANDREWS. Well, sometimes the best way to get them adopted—and I would hope the preferred way of getting them adopted—is ahead of the accident.

Mr. BURNETT. We would hope so, too.

Senator ANDREWS. The best way to do that is if the press would pick up what you just told me. You've got recommendations that may be adopted 5 years from now, perhaps. It's appalling. If I was running a transit system, using it on a day-by-day basis, and I heard what you just told me, I'd make darn sure that somebody did something to make sure that some of these recommendations are adopted.

HEAD SHIELDS AND SHELF COUPLERS

Mr. VOORHEES. Mr. Chairman, as an example of an item which takes time and has finally paid off, you may recall the discussion we had at this table last year involving head shields and couplers on rail tank cars. That took some time for industry to pick up on and to get accomplished, and we have had significant positive evidence recently that it paid off in terms of accidents that did not result in catastrophic releases of hazardous materials.

But again it was a case where the industry and regulators did not immediately pick up and run with it. There were all kinds of complaints of too much cost and so on and so forth. They finally implemented the Board's recommendations, and it has paid off. I think these are the types of things that Mr. Burnett is talking about, where there is not an immediate rush to implement the recommendations, but eventually, over time, through our persuasive efforts and through more accidents where you can cite the same type of occurrence, they are eventually picked up on.

Senator ANDREWS. But you are getting back to the same situation that appalled me a moment ago; you are saying that operators began to adopt a procedure that you asked them to adopt after they had had three or four more accidents.

Mr. VOORHEES. Yes, sir.

RAIL RAPID TRANSIT RECOMMENDATIONS

Senator ANDREWS. So I suppose that these recommendations you made to the rail transit authorities might be adopted if we have a few more accidents.

Mr. VOORHEES. That's probably correct, sir.

Senator ANDREWS. That's a sad comment.

Now when you talk about your recommendations in the Metro system, how do your recommendations compare to the findings of the independent investigation conducted by Metro?

Mr. BURNETT. We have not made any recommendations at this point. To make recommendations, the entire Board has to vote on them, and that process has not been completed, and I would not be in any position to announce to the committee today what our recommendations are even going to be. We have them in the works and there's a possibility that some might be approved this week.

WASHINGTON METRO ACCIDENT

Senator ANDREWS. Was there an overlap in your investigation?

Mr. BURNETT. From the independent Board? Yes; they investigated the same thing we did, except they were sort of an in-house group, an industry group, and we represent the people of the United States and the Government of the United States. I hope that the public would not be satisfied with having an industry group representing the industry investigate the industry in a serious matter like that.

Senator ANDREWS. Well, perhaps by next fall the Board will have met and will have taken a look at things and issued their recommendation, and the Metro system might be a little bit safer.

Mr. BURNETT. We will issue our recommendations as soon as we can deliberately do so.

HIGHWAY SAFETY

Senator ANDREWS. Because the Board has reduced the highway field program by 44 percent, I understand that many safety functions in this area are being cut back. The Board has indicated it will no longer be able to investigate all catastrophic highway accidents. Will the Board investigate any catastrophic accidents?

Mr. BURNETT. Yes, sir, we are investigating one right now. We had one over the weekend in New York where a van loaded with 9 or 10 people was struck by a train, and we are investigating that as of today.

CATASTROPHIC HIGHWAY ACCIDENTS

Senator ANDREWS. What is a catastrophic accident?

Mr. BURNETT. Every one of these highway accidents that we have all over the country which involve 50,000 people, approximately, every year are catastrophic to the families of the people that are involved in them, and those are the fatal accidents.

Senator ANDREWS. How do you define "catastrophic"?

Mr. BURNETT. We define it as five fatalities, our traditional definition. Five fatalities or, if a schoolbus is involved, three fatalities are catastrophic. That indicates the arbitrariness of that. Two children lost is catastrophic, but even if we had the entire Transportation Department, we probably could not investigate every fatality in highway accidents. So we have to be selective.

CHILD RESTRAINTS AND DRUNK DRIVING

Senator ANDREWS. The Board has also indicated concern about the problem of alcohol abuse on the Nation's highways and about the need for child restraint systems in automobiles. These are two safety areas that require efforts on the part of State and local governments, perhaps even private organizations, if they are going to be dealt with successfully.

What do you see as the proper Federal role in those areas?

Mr. BURNETT. I personally, Mr. Chairman, do not favor Federal regulation requiring child restraints. I think it may be appropriate for State legislatures to do so. I think we have to realize that not all issues can be resolved by the Federal Government.

I personally have been very much involved in the issue of drunken driving and what needs to be done to prevent that senseless tragedy on our Nation's highways. And I think the basic effort there is going to have to come within the local court systems. We are going to have to beef up the way they handle drunken driving cases and get drunken drivers off the roads.

I do not think that there is apt to be any Federal legislation that can produce that. I think the best way probably to have some effect on it is through work such as the Safety Board does, because we can study the many initiatives that are taking place in States and localities right now, that are produced by often the families of victims of drunken drivers who are going before the State legislatures and the local governmental and are achieving reforms to try to monitor and study and see which one of those are most effective.

DRUNK DRIVING

Senator ANDREWS. Well, now, is there a problem with drunken drivers?

Mr. Burnett. Yes, sir.

Senator Andrews. And it is killing tens of thousands of people, or killing and injuring tens of thousands of people. You make the point that it should be handled on the local level, and I tend to agree with you. But I do think that the Federal Government has a responsibility not just to sit back and say that the States should do something.

But are you or any other agency preparing a suggestion kit or draft legislation kit to be submitted to the 50 State legislatures with compelling enough information to get something accomplished? Have you checked with the Federal Highway Administrator to the point where that Highway Administrator can send directives out to say we are going to withhold some of your highway construction funds if you do not do something about drunken drivers?

I am far more interested in what States do about drunken drivers than our action saying we are going to cut your highway funds if people drive over 55 miles an hour in your State, yet everybody sits back and says, not us; somebody else is going to do something about drunken drivers.

While I agree with your argument that action ought to take place at the State level, I just do not see any action whatsoever on the part of this administration or the prior administration in addressing that. Do you have a plan of action, or if you do not, does anybody else? Or are we just passing the buck once again?

Mr. Burnett. Senator, I think the answer is, "No," we do not have a plan of action. I agree with the Senator that it is one of the priorities that we need. It is one of the priorities of my administration that we do so, and it is one of the personal interests——

Senator Andrews. That is one of your priorities, and 5 years down the pike maybe we will get something done.

Mr. Burnett. My administration is 2 months old, I think, at the Safety Board at this time. But I pledge to you that when we come back next year we are going to have a plan for the Safety Board's involvement.

Mr. Voorhees may have some comments as to what some of the other agencies are doing.

Mr. Voorhees. Mr. Chairman, over the past 2 or 3 years the Board has proposed an expanded highway program which would look at what the Federal role ought to be and do other things in the highway area. However, this expansion was not approved in the 2 or 3 years that it was proposed. However, if given the resources, the Board is more than willing to make additional efforts in this area.

Mr. Kissinger. The Department of Transportation is also trying to coordinate the development of a National Commission on Drunk Driving and the National Highway Safety Administration has indicated that drunk driving and child restraints are areas where they are going to be paying close attention.

From our standpoint, we feel we have a need to make sure that they follow through on their pledge.

Senator ANDREWS. Well, I will be most interested in hearing, one, what you have done when you are 14 months into your administration; and two, what the response has been and the results have been out in the field.

PIPELINE SAFETY

On another matter, pipeline safety, you mentioned in your statement that the Board's pipeline safety staff has been reduced to one investigator and one supervisor.

Mr. BURNETT. That is correct.

Senator ANDREWS. About a week ago in this room we received some reports that because of financial constraints, some States may be dropping out of the Department of Transportation's pipeline safety grant aid program. Additionally, it is possible that pipeline companies will be deferring needed maintenance during the current economic downturn.

How do you justify cutting your pipeline safety staff so drastically under these conditions?

Mr. BURNETT. We had to cut staff somewhere, Senator. And we have some discretion in the number of accidents we investigate in the surface modes. Congress mandated that we investigate all accidents in the aviation mode, and we felt like we had less discretion to make reductions in those areas than we did in the surface modes.

Basically what we did is that we defined, by our own regulation, how much property damage there has to be before we routinely look at an accident.

Senator ANDREWS. In this case I am not talking about routinely looking at an accident. I am looking at ahead of time incentive. I would think you would, too.

The thrust of my question is to point out to you that in a time of economic recession there probably will be more tendency to allow conditions to develop that cause pipeline accidents at the precise moment you are cutting back people out in the field that monitor the situations.

DOT PIPELINE SAFETY PROGRAM

Do you think the Department of Transportation's pipeline safety programs are effective?

Mr. BURNETT. Barry, would you like to respond to that?

Mr. SWEEDLER. As you say, working with the companies and the States, the Department of Transportation does have that role of making sure that the——

Senator ANDREWS. I know they have the role. I am just asking if you think they are effective.

Mr. SWEEDLER. To a great extent they are, sir. The pipeline safety picture in this country is——

Senator ANDREWS. Effective enough so we can get by? You are cutting back your staff to one investigator and one supervisor; is that correct?

Mr. BURNETT. No, Senator. We do not believe that at all. We are not satisfied with the level of pipeline efforts we have.

Senator ANDREWS. He just said it was effective.

Mr. BURNETT. He said what the Department of Transportation was doing has been effective. I do not think we are as effective as we should be. If you are asking us whether or not we have enough resources committed to that task I would say, "No, we do not."

GRADE CROSSING ACCIDENTS/REFLECTORS

Senator ANDREWS. Grade crossing accidents, as I understand it, involve the greatest number of rail-related fatalities. Of particular concern are those accidents which occur at night, presumably because the motorist did not see the train. You have been very active over the years in the area of putting reflectors on rail cars to increase their visibility.

What has been the experience of the Canadians in reducing grade crossing accidents by using reflectors? How does their accident rate compare to that of the United States?

Mr. BURNETT. Mr. Sweedler?

Mr. SWEEDLER. At the current time the Transportation Systems Center in Cambridge, a part of the Department of Transportation, is in the process of making a complete study of the Canadian experience. They have been up to Canada and have met with their people, and a report on the effectiveness of the Canadian program probably will be out within the next 1 or 2 months.

But at this point we have not seen the drafts and don't know the results of that study.

Senator ANDREWS. You do not yet know what the effectiveness is?

Mr. SWEEDLER. Not yet.

Senator ANDREWS. You are waiting for the report.

Mr. SWEEDLER. That is correct, sir.

Senator ANDREWS. Gosh, we are going to have all kinds of fun next year finding out all this. It is kind of like the soaps. You know, you have got to wait 3 weeks before you find out what happened yesterday.

FRA ALTERNATIVES

Are there other alternatives that the FRA should be considering, such as better illumination of crossings or some type of warning system which should be installed at crossings? They are highly expensive and you do have high-volume crossings, but is there anything better than these reflectors?

Mr. SWEEDLER. There are two basic solutions to the grade crossing problem: One, keeping in mind that there is not enough money to separate all grades, that——

Senator ANDREWS. I recognize that.

Mr. SWEEDLER. But the two effective areas, one deals with the driver's awareness of the hazards at the crossings, and operation lifesaver has been extremely effective in that area of reducing fatalities in the grade crossing picture. In fact, over the last 4 or 5 years there have been reduced fatalities at grade crossings.

The other area is, as you say, the installation of warning devices at the more hazardous crossings. These two programs have proven to be quite effective.

Senator ANDREWS. Well, you are pushing reflectors, as I understand it, and I assume that is because their effectiveness has been assessed.

Mr. SWEEDLER. The effectiveness those——

Senator ANDREWS. But the Canadians have been doing it for years, and you say you are going to have a study that tells us in 2 or 3 months whether that has been effective.

Mr. SWEEDLER. In our opinion, we think that the reflectorization is a good program and will be effective.

REFLECTORIZED TAPE ON RAIL CARS

Senator ANDREWS. What sort of studies have you done to assess the effectiveness of reflectors on these rail cars?

Mr. SWEEDLER. We have looked at research others have done and we feel that research should be put into——

Senator ANDREWS. Could you provide at this point in the record the research and/or the studies that you have done that convince you that reflectors are effective?

Mr. SWEEDLER. Certainly, sir.

[The information follows:]

The National Transportation Safety Board adopted, on April 3, 1981, a safety effectiveness evaluation "Nighttime Conspicuity of Railroad Trains." We have also reviewed Federal Railroad Administration reports entitled "Guidelines for Enhancement of Visual Conspicuity of Trains at Grade Crossings," dated May 1975 and "The Benefits and Costs of a Program To Reflectorize the U.S. Fleet of Railroad Rolling Stock," dated January 1979. The Board recommended in its evaluation that the FRA issue an advance notice of proposed rulemaking to invite the public's comment on the improvement of the visibility of railroad trains at night. The Safety Board has not specified reflectorized tape but has requested that a research program be instituted to establish criteria for reflectorization devices and materials. The status of this recommendation is open—acceptable action.

We continue to believe that a properly developed reflectorization program will have a positive safety impact at all grade crossings. Other modes of transportation have taken measures to improve the nighttime conspicuity of vehicles and facilities. Trucks and cars are required by Federal regulation to have lighting and reflectorization on their rear ends and sides in specified colors. Roadways are required to have illumination or reflective markings to indicate hazards, delineate the traveled way, and warn of various road conditions. In the marine mode, ships and pleasure craft, many channel markers, and other navigational aids are lighted or reflectorized. Aircraft and aircraft facilities are also lighted to meet night visibility requirements. Railroads, however, are permitted to occupy and temporarily close 358,000 crossings at anytime without any requirement that the ability of the motorist to detect the train be enhanced.

STAFF REDUCTIONS

Senator ANDREWS. The Safety Board has indicated that it is facing severe staff shortages in technical areas that are likely to get worse in the future. How would this shortage be affected by transferring additional functions currently handled by other agencies to the Safety Board? Is it realistic to assume that the Board could handle any more than its current workload?

Mr. BURNETT. Not without additional resources, Senator.

TRAVEL BUDGET

Senator ANDREWS. The Board has indicated that administrative travel has been reduced by 70 percent this year and now accounts for less than 5 percent of the travel budget. Are investigative functions in any particular mode suffering disproportionately due to funding levels in the other 95 percent of the travel funds?

Mr. BURNETT. I think the answer to that would be, we have had to cut our travel for training. We have missed some valuable training opportunities in the new—for instance, the simulators and the cockpit training programs for the new generation of aircraft, because we could not afford to send our investigators to the site of the training. And often our investigators in the aviation area can ride a jumpseat in the aircraft. They do not have to pay for travel. But we just cannot even afford the per diem.

Senator ANDREWS. What sort of impact on safety can be expected from the reduced travel budget that limits the Board's investigative ability?

Mr. BURNETT. I think the impact necessarily is going to be negative.

Senator ANDREWS. So you are not going to have any impact at all by reducing the travel budget?

Mr. BURNETT. Excuse me. If you interpret my statement to mean no impact, the negative impact—our ability to reduce accidents will be impaired seriously.

Mr. KISSINGER. One of the areas we are concerned about is, that due to air travel cutbacks, we are not going to have the opportunity to get out into the real world, to the safety conferences, to the safety constituency, and promote the completion and fulfillment of those recommendations, which gets exactly at one of your earlier concerns.

Senator ANDREWS. That is the kind of transportation that you are cutting back first?

Mr. KISSINGER. Unfortunately, that is correct.

STATE RESPONSIBILITY

Senator ANDREWS. The administration is pursuing a new federalism initiative that will impact quite heavily in the transportation area. Although much of this initiative is still in the preliminary stage, it looks as though significant responsibilities may be returned to the States, particularly in the highway and mass transit area.

Have you formed any preliminary estimates on what impact these new federalism initiatives would have on transportation safety?

Mr. BURNETT. No, sir, we have not. We have not looked at that area.

Senator ANDREWS. What are your personal views?

Mr. BURNETT. Mr. Chairman, I believe in the policy of new federalism and doing more on the local level. The reason I wanted to be a member of the Safety Board is because I feel that the Safety Board is doing exactly what the Federal Government ought to be doing, and that is looking at the regulation of interstate commerce and particularly in the area that Government most needs to do, and that is protecting the public safety.

To me, this is the meat in the coconut, so to speak, about what the Federal Government ought to do, and I would hate to see us abrogate our responsibilities to provide for public safety in the area of the national transportation system, which is most appropriately regulated by the Federal Government.

Now, when you talk about highway construction and rules of the road, I think those may be legitimate areas for State primacy. But as far as the regulation of the interstate transportation system, I believe that the Federal Government ought to continue in that area and should not retreat from its commitment to protection of the public safety, but reemphasize it.

I do not know whether that is responsive to the question the chairman is asking.

Senator ANDREWS. I asked you for your personal views and you gave them to me.

EMPLOYEE MORALE

The Board has eliminated payment of overtime and reduced employee award money by 76 percent, reduced promotions by 50 percent, and is planning to furlough all employees for 3 days in fiscal 1982. How has this affected employee morale in the agency?

Mr. BURNETT. It has been disastrous.

Senator ANDREWS. Have you experienced increased attrition of technical specialists because of these measures?

Mr. BURNETT. I do not think we have at this point, simply because we have been letting more people go than could leave by attrition.

Senator ANDREWS. Have you taken any steps to assure retention of technical personnel?

Mr. BURNETT. Unfortunately, we have been unable to, and this could be very serious for us. I think many of the savings measures that we have taken this year are measures that we cannot continue—we have been borrowing from those areas in order to protect our staffing levels as much as possible. In the future we will not be able to do that.

We are going to have to restore moneys for training, moneys for travel, and moneys for promotion, in order to be able to keep the people that we have left on board at maximum effectiveness. And at the same level of appropriations, we may have to make further reductions in staffing in order to be able to maintain the quality of the people that we have left.

Senator ANDREWS. Well, I appreciate your candor.

SUBMITTED QUESTIONS

We have some other questions that will be submitted for the record. Some of the other members of the subcommittee have questions as well. Because of conflicts, they were not able to be here, but they would like to submit questions for the record.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

AVIATION SAFETY

Senator Andrews: You state in your budget that you are experiencing a shortage of vehicle crashworthiness investigators and this has hampered progress on the Board's cabin survivability and seat crashworthiness projects. What sort of projects has the Board undertaken in these areas and what is their timeframe for completion?

Response: Since the early 1960's the Safety Board has recommended, based on its accident investigation experience, that the FAA should upgrade its minimum standards for occupant protection in airplanes to conform to the crash forces that scientific experiments have shown to be tolerable to the human being. The FAA maintains that the human tolerance level to accelerative forces is in the range of about 9 G's, which is the design inertia load for aircraft seats. The Safety Board, based on its own accident experience as well as on the results of 30 years of scientific research, believes that a range of 15 to 20 G's is a more accurate figure for the average human being restrained only by a safety belt. More sophisticated restraint systems are capable of protecting aircraft occupants to even higher survivable forces. Since 20 years of dialogue did not produce the results expected from FAA, the Safety Board in 1980 decided to perform the research needed to prove that the acceleration levels in the average airplane accident were within the human survivability range if adequate seat strength and body restraint was being provided. To that end, the Board designed a program to systematically collect and evaluate crashworthiness data on a select sample of fully survivable to marginally survivable general aviation aircraft accidents in an effort to corroborate past findings and to establish a significant data base to support future recommendations. The Board's initial crashworthiness program plan was based on the assumption that the Human Factors staff of 4 investigators would be augmented by 10 additional investigators by the end of FY 82. This would have enabled us to conduct a very detailed investigation of about 350 accidents involving general aviation aircraft by December 1984 to determine answers to the following questions:

1. At what acceleration levels is injury extreme and survival marginal.
2. How do seats and restraint systems in accidents respond over the range of accelerations experienced.
3. Can realistic changes in aircraft design reduce the level of injuries experienced in present-day accidents.
4. Can realistic changes in occupant protection features be introduced without unrealistic aircraft design changes.
5. Can a realistic average aircraft crash model be established for use by aircraft designers.

Due to the severe budgetary constraints imposed on the Board, this ambitious program was curtailed severely. The Board was able to hire only one crashworthiness expert to manage this program. By internal allocation, we were able to assign two more investigators who have limited experience in crash dynamic analysis to support this program. However, since we will be unable to augment this staff to our planned level, we will be able to investigate only about 120 accidents for detailed crashworthiness analysis by the end of 1984. We believe that more accident investigations will be required to provide tne statistical validity needed to answer the above questions. While we intend to provide interim reports we anticipate a 2 year delay in completion of the program.

Senator Andrews: Because of budget reductions, the Board's avionics experts are not receiving training in advanced technologies such as the equipment which will soon be in operation in new aircraft, microwave landing systems, new ATC computers, etc. Many of these technological advances loom in the immediate future while others are quite a few years away from being actually operational. Please detail the types of avionics' technologies in which you feel your experts will be deficient in the future and give an estimated timeframe as to when these types of equipment would likely be operational.

Response: The Board needs expertise in the following future avionic technologies:

- Electronic Instruments
- Digital Instrument Displays
- Computer Controlled Cathode Ray Tube (CRT) Displays
- Ring Laser Gyros
- Light Emitting Diode Displays
- Electroluminescent Panel Displays

The above will be operational on the B-767 in September 1982 and the B-757 in December 1982.

With regard to Air Traffic Control, the FAA plan for modernization of the National Airspace System provides for the following new ground based avionics equipment:

- New high speed computers in the ARTCC's — 1985
- Mode S transponders and data link displays — 1986
- Expansion of direct access radar channel — 1983-1984
- Microwave landing systems — 1985
- Solid state airport surface detection radar (ASDE-3) -- 1986
- Solid state terminal radars (ASR-9) w/weather channel -- 1985
- Doppler Weather Radar (NEXRAD) and Weather Digitizer -- 1987
- Solid state long range radars (ASR) -- 1981
- Solid state VORTAC stations — 1983

In order to continue to effectively determine the cause of accidents, our avionics experts must be knowledgeable about the engineering design of these equipment, the potential failure mechanisms, and the interrelationships with human performance. They will need familiarization courses on design, maintenance and operational use of specific applications of new technology. Both the budget reductions and the size of our limited staff with respect to ongoing workload and commitments place difficult constraints on our ability to ensure that such training is accomplished.

RUNWAY LENGTHS

Senator Andrews: We recently experienced some aviation accidents in which short runways could have been a factor in causing the accident. This refers specifically to the Air Florida crash here in Washington and the World Airways plane which went off the end of the runway in Boston. To what extent have you looked into the question of runway length and what is your appraisal of the FAA standards in regard to required length?

Response: The Safety Board would find it difficult to cite runway length alone as a factor in either of these accidents without additional discussion regarding runway condition and the compatibility of operational runway requirements with the performance of the airplane as demonstrated during the airplanes certification. The current regulations require that the runway used for take off be long enough that the airplane is capable of accelerating to a speed, at which it could lose the power from one of its engines and either continue to take off safely or stop within the constraints of the runway. In the case of landing the airplane must be capable of landing from a position 50 feet above the runway threshold and coming to a full stop within 60 percent of the available runway. The air carriers must compute the maximum weight for the model of airplane that will enable it to operate from the runway and meet those criteria. Thus in theory at least a lower weight airplane operating from a short runway has the same margins that a heavier airplane has on a longer runway.

The problem is that all of the safety margins are predicated upon the airplane and the pilot performing "as advertised" and the runway being in a clean dry condition. Any variations erode the safety margins. For landing an additional 15 percent runway length margin is added for a wet runway but this is arbitrary. Currently there are no requirements to correlate the airplanes performance to the friction decrease of a runway covered with water, snow or ice. There just are no guarantees that a pilot can reject a take off safely or land and stop safely on a slippery runway. The FAA basically relies on the reports from other pilots.

The Safety Board believes that the FAA needs to review the standards as they apply to slippery runways. With todays technology we believe that there should be ways to measure and correlate runway friction with airplane stopping performance and thus reduce the arbitrary nature of present operations.

We intend to hold a public hearing this spring which will address this issue.

Senator Andrews: Has the Board made any recommendations regarding the length of the runways at Washington National Airport?

Response: To date, the Board has made no recommendations regarding the length of the runways at Washington National Airport. The planned public hearing will focus on runway conditions and the criteria, or lack thereof, for limiting airport operations or closing runways during rain, snow or ice at Washington National Airport along with other airports.

We must note that the aircraft operating into Washington National are compatible with those runways under the present criteria based upon dry runway performance. Washington National Airport, however, was certificated based upon old airport certification criteria. The runway safety areas and extended runway safety areas do not meet the criteria for new airport construction. There are plans for extending the safety areas at the north end and we understand that an evironmental impact study is pending regarding this activity.

WASHINGTON NATIONAL

Senator Andrews: The Board recently held hearings on the Air Florida crash in which the safety procedures at National Airport were looked at. Have you any recommendations concerning needed improvements there?

Response: The Board's hearing did not indicate any deficiencies related to the Air Florida crash which have prompted us to make recommendations regarding National Airport. However, we should stress that we only examined safety procedures at National Airport which might have been a factor on January 13, 1982, as they related specifically to Air Florida, and did not undertake a review of National Airport in general.

RUNWAY SLIPPERINESS

Senator Andrews: As demonstrated by the World Airways accident in Boston this year, pilot reports on runway slipperiness are often based on opinion rather than standard measurements. What work is the Board doing to develop a more precise methodology in this area? What should other agencies such as FAA be doing?

Response: As a result of a Northwest Airlines B-747 accident that occurred at Miami International Airport on December 15, 1972, the Safety Board reviewed the entire spectrum of runway surface and surface friction considerations. The Board recommended that the FAA expedite its research program to determine the friction characteristics of wet runways, not only for its effects on the landing certification requirements for aircraft, but also for the certification of runway surfaces under revised airport certification regulations. Based on the Board's recommendation, research was undertaken through the combined efforts of the FAA, NASA, and USAF. Forty runways per year were tested using both the Mu-meter and the Diagonal Brake Vehicle (DBV). The intent was to adopt a standard for measurement of runway coefficient of friction. However, the test results did not provide the basis for establishing such a standard. This is one area which will be addressed in depth at our forthcoming hearing. We believe it is technologically possible to correlate actual runway friction with airplane performance. Other related Safety Board recommendations addressed the problems associated with coping with the hydroplaning phenomenon.

COMMUTER AIRLINE SAFETY

Senator Andrews: Commuter airlines experienced problems with their safety record in the past, however, this record improved significantly in 1980. How have the commuter airlines done during the past year? To what do you attribute this?

Response: See the table below for 1977-1981, inclusive. Based on preliminary data for 1981 the accident rates for air carriers operating under 14 CFR 135 declined from 1980 rates but at a lower rate of decline than the previous year. The accident data required to assess the change is not completed; therefore, only general statements can be made regarding the noted changes. We believe that the effects of the Board's program to gain improvements in commuter airline safety continue to motivate the FAA and the commuter airline industry to respond to long-identified safety problems. The FAA restructured its safety surveillance and enforcement program to parallel more closely its program for air carrier operations which have a superior safety record. The Board also believes that the commuter airline operators response to the improved program contributes significantly to the improvement.

ACCIDENTS, FATALITIES, AND RATES
U.S. AIR CARRIERS OPERATING UNDER 14 CFR 135
ALL SCHEDULED SERVICE
(COMMUTER AIR CARRIERS)
1977-1981

	ACCIDENTS						ACCIDENT RATES **					
							PER MILLION AIRCRAFT-MILES		PER 100,000 AIRCRAFT-HOURS		PER 100,000 DEPARTURES	
YEAR	TOTAL	FATAL	FATALITIES	AIRCRAFT MILES FLOWN	AIRCRAFT* HOURS FLOWN	DEPARTURES*	TOTAL ACCIDENTS	FATAL ACCIDENTS	TOTAL ACCIDENTS	FATAL ACCIDENTS	TOTAL ACCIDENTS	FATAL ACCIDENTS
1977	42(6)	9(2)	33	194,166,000	1,143,651	1,728,948	0.22	0.05	3.67	0.79	2.43	0.52
1978	55(4)	13(1)	47	224,228,000	1,288,480	1,978,483	0.25	0.06	4.27	1.01	2.78	0.66
1979	51(9)	14(3)	65	214,330,000	1,261,500	2,005,800	0.24	0.07	4.04	1.11	2.54	0.70
1980	37(8)	7(2)	36	202,100,000	1,263,200	1,895,400	0.18	0.03	2.93	0.55	1.95	0.37
1981P	28(1)	9(0)	35	178,500,000	1,082,600	1,708,800	0.16	0.05	2.59	0.83	1.64	0.53

P Preliminary Data.

* Exposure Data Estimates From CAB

** Rates are based on all accidents including those accidents involving operators (the numbers in parenthesis) not reporting traffic data to the CAB.

RAIL SAFETY

Senator Andrews: The Board focused attention on a problem concerning railroad maintenance personnel circumventing the fail-safe feature of some remote control signal switcher circuits in order to show a clear signal on the tracks. Has any progress been made to eliminate this by rail companies? Since Federal regulations already prohibit this procedure, what can the Board do to try and eliminate this hazardous practice?

Response: The American Association of Railroads has made the problem of circumventing the fail-safe feature of signal circuits known to all its member roads and has requested that they review their procedures to see that it does not occur.

The Safety Board has and can continue to point out the need for replacing relays and circuits in older style signal circuits that do not allow the system to go to fail-safe mode with newer style equipment and circuit designs. This can be done voluntarily by the industry on a priority basis with first, doing signal systems affecting passenger train movements, secondly, with signal systems affecting heavy hazardous materials routes, and thirdly, the remainder of the old style systems elsewhere. If voluntary action does not take place these nofail safe systems be updated.

Senator Andrews: The Board is reducing its railroad field program by 53 percent and raising the damage threshold for investigation of accidents involving property damage to $500,000. Please provide detail as to the breakdown of rail accidents, that is, how many involved fatalities, how many involved over $500,000 worth of property damage, how many involved between $150,000 and $500,000 worth of property damage, and how many involved under $150,000 during the past five years?

Response: The number of rail accidents investigated over the past 5 years by the Safety Board involving the following criteria are:

Fatalities:	
Public	1,356
Employees	203
Accidents over $500,000	433
Accidents $150,000 to $500,000	656
*Accidents under $150,000	48,989

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* Per Federal Railroad Administration statistics since NTSB does not obtain information on an accident under $150,000.

Senator Andrews: You mention in your budget that the FRA has not yet targeted the problem of vehicle-strikes-train accidents for a specific countermeasure program. Has the Board come up with any specific recommendations for such a program, aside from calling for reflectors to be put on the side of railcars?

Response: The most prevalent type of railroad accident is a collision between a train and motor vehicle at a railroad-highway grade crossing. This type of accident over the last 10 years has annually accounted for about 900 fatalities, 12,000 accidents, 4,000 injuries and property damage in excess of

$300 million. Railroad-highway grade crossing accidents involve both collisions where the train strikes a motor vehicle and where a motor vehicle strikes the side of a train. In nighttime conditions the Safety Board has found adequate evidence to suggest that the motorists' inability to perceive the presence of trains in crossings is a known problem. The Safety Board has addressed many grade crossing accidents on a site specific basis and has made many Safety Recommendations. For example, the Board has supported the concept of improved locomotive lighting to minimize the train strikes a motor vehicle at night. Likewise, the Safety Board has addressed the one area of nighttime vehicle-strikes-train accidents where a known countermeasure has been researched. Nighttime vehicle-strikes-train accidents is an area where public losses can be reduced. The Safety Board proposed to the Federal Railroad Administration that at a minimum the FRA should request the public's comments through the appropriate rulemaking approach, an Advanced Notice of Proposed Rulemaking, establish some criteria for reflectorization devices and materials, and release completed research reports on reflectorization. The Safety Board has not specified any other recommendations for a vehicle-strikes-train program except the reflectorization approach. Since there are 217,000 public grade crossings and 141,000 private grade crossings in the Nation, the Board believes that application of reflectors to railroad equipment offers the most practical way to substantially increase the visibility of trains at night at all railroad-highway grade crossings.

Senator Andrews: The Board's efforts in the area of reducing the susceptibility of tank cars to damage are to be commended. FRA has rulemaking currently underway which would extend some of these protection requirements to existing tank cars as part of a retrofit program. What is the status of this rulemaking effort? Do you feel a retrofit is necessary?

Response: The Federal Railroad Administration (FRA) has one outstanding rulemaking action under Docket HM-175 entitled "Shippers: Specifications for Tank Cars" published at 45 FR48668 on July 21, 1980. This rulemaking action proposes that DOT Specification 105 and DOT 111 tank cars transporting certain hazardous materials be retrofitted to provide the thermal insulation and tank head protection equivalent to that presently required for DOT Specification 112 and 114 tank cars.

Under the Department of Transportation's regulatory procedures, after a proposed rule is developed by the Federal Railroad Administration it must be transmitted to the Research and Special Programs Administration for review and issuance. Although the comment period on the Advance Notice closed October 16, 1980, we understand that the Research and Special Programs Administration has not yet received a proposed rule from the Federal Railroad Administration. This rulemaking has been substantially delayed from its original schedule, which projected publication of a Notice of Proposed Rulemaking in the Federal Register in January 1981.

The Safety Board continues to believe that this rulemaking is necessary to reduce the risk of catastrophic release of hazardous materials tank cars in railroad accidents. The hazardous materials transported by DOT Specification 105 and 111 tank cars include a variety of dangerous products including vinyl chloride monomer, chlorine gas, anhydrous ammonia, ethylene oxide, butadiene, and other toxic, combustible, and flammable products. We urge that further rulemaking action under Docket HM-175 be expedited.

MARINE SAFETY

Senator Andrews: The Board completed an agreement with the Coast Guard in September 1981 outlining new guidelines for the investigation of accidents conducted under joint regulations. This agreement would shift additional workload to the Board's marine investigators. Please provide a breakdown of the types of activities which are now required by the new agreement and what the estimated workload requirements will be. How does the Board plan to implement this agreement given that the marine program is already understaffed by 27 percent and there is currently a backlog of investigations?

Response: The agreement places the following two new requirements on the Safety Board:

(a) to investigate collisions between Coast Guard vessels and non-public vessels, and

(b) upon mutual agreement, to investigate any public vessel/non-public vessel accident or any major marine casualty which involves significant safety issues relating to Coast Guard safety functions.

As indicated in my opening statement and our budget request, because the Board has only 10 marine specialist to investigate all major marine casualties and some 150 investigations are currently pending, it may well be impossible to fully carry out the Board's new responsibilities in the marine mode. The kinds of accidents which it is envisioned the Board would investigate under this new responsibility would be of such significance that a formal public hearing would be required. Hearings of this nature require a Board of Inquiry (usually three persons) and a panel of technical experts (a minimum of three additional persons) in addition to public information staffing and administrative support. Assuming only two such investigations a year, it is estimated that approximately 6 personnel would be required for an estimated 4 months each on each accident (considering the time required for the public hearing, the initial on site investigation, the analysis of the results of the hearing, and the preparation of an accident report and safety recommendations for prevention). Thus, 6 persons for four months for each of 2 accidents would result in an estimated 4 additional staff years of effort for this new responsibility.

VESSEL TRAFFIC SERVICES

Senator Andrews: The Board has expressed concern over the Coast Guard's planned reductions in vessel traffic services. What is the Board's assessment of the potential for increased risk of ship accidents due to these reductions?

Response: We believe that the risk will not simply rise to the levels which existed prior to the establishment of the VTS systems, but will exceed those levels. Our waterways are more congested and are carrying more hazardous materials than before the establishment of the VTS systems. In addition, the VTS systems have given masters and pilots increased confidence about traffic and waterway conditions so that ships are operating at higher speeds or at times when they might otherwise have anchored or tied up. With the removal of these systems, these new practices may continue out of habit with possible disastrous results. Where VTS is terminated masters and pilots will need to take additional precautions to compensate for the loss of these safety services.

HIGHWAY SAFETY

Senator Andrews: In Highway Safety, a high percentage of safety improvements are achieved at the State and local level. The Board, however, has indicated that it must reduce liaison efforts with these officials thus current accident notification arrangements by the States of accident occurrences may "fall by the wayside". What has the Board done to notify State and local officials of these reductions? What sort of investigative capabilities do most States currently have in the Highway Safety area? What sort of liaison with States is maintained by FHWA?

Response: The Board has a task force currently studying the impact of the reduction in highway field personnel. The end results will provide a realignment of geographic boundaries of field responsibilities. When this study is completed, the State and local authorities will be notified of these new areas and requested to change their notification procedures accordingly.

The highway accident authority and responsibility varies from State to State. The data gathered and actions taken during accident investigation by State officials varies accordingly. The quality of investigation varies from excellent to satisfactory in areas of interest to the States. However, no State has a highway investigative capability that is equivalent to the Board nor does any State consistently investigate and report on safety items that are national in scope or the responsibility of the Federal government.

The Federal Highway Administration has through its Bureau of Motor Carrier Safety (BMCS) at least one highway safety specialist in each State. These safety specialists maintain liaison with the State law enforcement agencies and have established lines of communications. The BMCS notifies the Safety Board of the occurrence of selected categories of highway accidents that come to their attention through their State contacts. The Safety Board received notifications of 379 accidents from the BMCS during CY 1981.

Senator Andrews: The Board has done considerable analysis regarding wet weather accidents which were occurring because of the inadequacies of the pavement surface. Because of the Board's recommendations, FHWA encouraged the states to reduce this problem. Recently, FHWA decided to withdraw proposed regulations which would set standards for the design of skid resistant roads with Federal money. Does the Board feel that the existing rules which require skid-resistant material but give States flexibility on design are adequate? Would you agree that the withdrawn proposals constitute overregulation?

Response: Based on the Board's experience we can not concur that existing rules are adequate. To have adequate regulation FHWA must determine performance standards that define what an adequate surface is in a quantifiable manner. There are no nationwide accepted publications used by FHWA to define an adequate surface.

The Board has encountered problems as a result of lack of quantifiable values. One State (Missouri) did not believe that a pavement was slippery and in need of repair until the friction value (as measured by standard procedures) fell below 0.25. Other States took corrective action only when the friction value fell below 0.30 or even 0.35 1/. As shown in one of the Board's investigations 2/, truck tires on this type of surface (0.25 friction value) experience a further degradation in friction, and the truck responds as if on ice. In other States (Utah and Texas) some pavements were designed for durability at the expense of good skid resistance 1/ 3/. In another investigation 4/ one State used an inferior quality of aggregate on State funded jobs (even though it was on a U.S. Route) when compared to federally funded jobs. In the Board's reviews 1/ one State (Florida) was required by the

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1/ NTSB SEE-80-6

2/ Luling, Texas, NTSB-HAR-81-4

3/ Scipio, Utah, NTSB-HAR-79-1

4/ McAlester, Oklahoma, NTSB-HAR-78-1

FHWA Division office to import aggregate for another state because local state aggregate was inferior. With local pressure from aggregate manufacturers and FHWA's withdrawal from this type of policy decision, this state's program, which was beginning to improve significantly, will most likely deteriorate. As FHWA indicated in the rulemaking withdrawal, the Safety Board also found some States (California and Pennsylvania) with good programs that had the expertise and information to best determine what type of skid resistant surfaces should be used. However, the Board also found some states that did not collect, or did not process needed information (Mississippi); with missing program elements (Nebraska); or that had poor skid resistant programs that need to be monitored by FHWA as proposed in the withdrawn FHWA NPRM.

The subject guide 5/ FHWA recently approved in the rulemaking withdrawl stated "Research efforts for improved skid resistance and more reliable measurement methods are continuing. Therefore, these recommendations should be regarded as interim." In the 6 years since this guide was issued, FHWA has spent millions of dollars in research to develop meaningful guidelines, some of which were almost ready to be implemented.

The Safety Board's Study 6/ found that annually there are about 5,000 to 6,000 fatal accidents that occur on wet pavement. In most accident investigations, pavements are not tested, but in 9 of the 13 investigations (69 percent) we conducted extensive testing on wet pavements. The pavements had a low enough frictional value to be considered as contributing factors in the accidents. We may be in a period of deregulation but based on the Safety Board's investigations, we are convinced that a significant percentage of the 5,000 to 6,000 fatal accidents can be attributed to unduly slippery surfaces. More nationwide funds are being committed to resurfacing of pavements as pavements deteriorate, especially with the "3 or 4R" programs. The Safety Board believes that the skid resistance problem can best be solved by "good" quantitative regulations.

Senator Andrews: In 1981, legislation implementing Board recommendations to improve the effectiveness of the National Driver Register was introduced into both Houses. DOT originally proposed abolishing the Register but subsequently expressed support for it. Has the Board conducted any studies which assess the safety impacts of abolishing the Register? Have safety improvements been identified which would result from passage of the proposed legislation?

Response: The Board has not undertaken any study which would assess the safety impacts of abolishing the National Drive Register, however, the Board has long been on record in favor of expanding and improving the present system.

In this regard, the Board has supported legislation introduced in the Congress to enhance the effectiveness of the National Driver Register.

In terms of the ultimate safety impacts of these National Driver Register improvements, no one has been able to quantify the reductions in highway crashes, fatalities, and injuries that might be achieved. Part of the problem is that without an effective system for obtaining complete and accurate driver record data, the actual record of a problem driver often cannot be detected, even in the case of crash-involved drivers. We recognize that there is a problem, but do not have the tools to measure it.

5/ Guidelines for Skid Resistant Pavement Designs, AASHTO, 1976
6/ NTSB-HSS-80-1

What we do know is that complete and accurate driver record information is essential to all of the highway safety functions of the States and that this need currently is not being met as effectively as it should be. The Department of Transportation estimates that an upgraded National Driver Register would provide nearly 900,000 actionable identifications to the States in the fifth year of operation, compared to about 75,000 actionable identifications in that year if the current Register were not improved.

HUMAN FACTORS

Senator Andrews: According to your statement, you now have two people assigned to the human factors crashworthiness program and one person assigned to the human performance program. Is this the total extent of your human factors program? Is this area one which will be on-going for the Board or does it have a limited time-frame? If it has a time-frame, detail it for the record.

Response: The Human Factors Program is one of the more diversified, multi-modal and labor-intensive programs existing in the Board. The Board's human factors specialists investigate areas involving medical factors, survivability, crashworthiness, evacuations, crash/fire/rescue, cabin safety, disaster preparedness and human performance factors. Except for human performance, there is no specialization in these areas. More over, these investigators apply their investigative skills in aviation, highway and railroad accidents. The Board has assigned 4 positions to these on-going functions. One additional position has been assigned to the human performance area of investigation which is a new initiative within the Board since 1980. This function specializes in the psychophysiological aspects of accident causation, including such areas as medical, personality profiles, workload, fatigue, ergonomics, and training as they effect human performance. It is an ongoing function. Three additional positions have been assigned to the general aviation crashworthiness project which is a limited time-frame designed to run from FY 82 through FY 85. This crashworthiness program was designed to collect and evaluate data on a select sample of survivable general aviation accidents in order to determine the forces involved in typical light airplane crashes; determine the range of survivable crash conditions; and to determine the injury producing mechanisms in crashes. The objective of this study is to recommend needed aircraft design improvements for better occupant protection.

HAZARDOUS MATERIALS

Senator Andrews: Current responsibility for regulating the transportation of hazardous materials lies with the Secretary of Transportation. However, within DOT, several agencies have various levels of involvement with hazardous materials including RSPA, FAA, the Coast Guard, and FRA. Some experts believe that because of this disbursement of responsibility within DOT, it will be impossible to provide long-range planning and effectively administer the hazardous materials transportation act. Has the Board looked into the area of transporting hazardous materials? If so, have you assessed the DOT management initiatives in this area?

Response: The Safety Board issued a "Safety Report: Status of Department of Transportation's Hazardous Materials Regulatory Program," NTSB-SR-81-2 on September 21, 1981 (copy enclosed). This report reviews the development of hazardous materials regulatory programs since all responsibilities first were centralized in the Department of Transportation. One of the Board's conclusions in its Safety Report was, "DOT has not established a cohesive, effective management system for efficiently administering all of its hazardous materials responsibilities." The Board believes that without an overall mandate by the Secretary for a single, departmental hazardous materials program to be implemented by the Administration, long-range planning, establishment of department-wide hazardous materials safety objectives, and effective use of limited DOT resources for administering the responsibilities assigned by the Hazardous Materials Transportation Act of 1974 will not be accomplished.

Contrary to the statements of some RSPA managers, the Safety Board is not asking for the DOT's hazardous materials activities to be administratively centralized. Rather the Safety Board believes that the establishment of program objectives for inspections, enforcement actions, and rulemaking should be centralized within one unit and that unit is given responsibility for monitoring each Administration's hazardous materials program to assure that it complies with the department-wide objectives. Most importantly, the Board believes that this central unit must have authority to require changes in an Administration's program should the program not meet the established objectives — in effect this unit would establish the rules for administering a program and then act to assure that each Administration adheres to the rules. This would be in sharp contrast to the present system where each Administration establishes the rules it wishes to use. This process not only would improve administration of the DOT's responsibilities, but, for the first time, it would identify who within the DOT is responsibile for hazardous materials transportation safety.

Consequently, the Safety Board recommended that the Secretary, "Charge a single DOT agency with the responsibility for planning and administering an integrated, effective department-wide hazardous materials transportation safety program and provide it with sufficient authority to assure that the program objectives are achieved in each DOT Administration" (I-81-11). Five additional recommendations for improving DOT's hazardous materials regulatory programs also were included in the Board's Safety Report.

Senator Andrews: The Department of Transportation has issued a rule regarding the transportation of radioactive wastes over interstate highways. Has the Board done any investigation into this area?

Response: The Safety Board has not investigated any highway accidents which involved the transportation of radioactive wastes.

AGENCY RESPONSIVENESS

Senator Andrews: Please update information provided for the record last year detailing the responsiveness of the various transportation agencies regarding recommendations made by the Board.

Response: Below is the updated chart as requested.

Rate of Acceptance of NTSB Recommendations By Regulatory Agencies in Each Mode

	1979			1980			1981		
MODE AGENCY	TOTAL	ACCEPT.	%	TOTAL	ACCEPT.	%	TOTAL	ACCEPT.	%
AVIATION									
FAA	108	93	86	123	99	87	153	70	77
HIGHWAY									
DOT	-	-	-	3	1	33	1	1	100
FHWA	4	3	75	28	15	88	25	6	75
FTC	-	-	-	1	-	-	-	-	-
NHTSA	19	10	53	13	4	38	10	2	100
RAILROAD									
DOT	3	2	66	7	5	71	3	1	50
FRA	24	14	58	13	4	57	12	2	50
UMTA	4	4	100	1	1	100	19	11	61
MARINE									
FCC	-	-	-	-	-	-	3	-	-
MARAD	-	-	-	-	-	-	3	-	-
USCG	77	47	61	83	51	61	45	6	60
PIPELINE									
DOI	2	-	-	-	-	-	-	-	-
DOT	1	-	-	-	-	-	-	-	-
MTB	5	5	100	-	-	-	-	-	-
RSPA	6	3	100	20	12	86	20	3	75

NOTE: The rate of acceptance is arrived at by dividing the total, less those for which a status has not been determined, into the number of recommendations having acceptable action:

ACCEPTANCE RATE = OAA + OAAA + CAA + CAAA / TOTAL - (OAR + ORR).

LEGISLATION

Senator Andrews: The Board proposed last year several clarifications and amendments to the Independent Safety Board Act in order to increase its investigative efficiency. Detail for the record the nature and current status of this legislation and any new legislative proposals planned for this year.

Response: The clarifying legislation proposed by the Safety Board last year was signed into law by the President on November 3,1982 as Public Law 97-74. The Board has no plans to submit amendments to the Independent Safety Board Act this year.

ACCIDENT INVESTIGATION STUDY

Senator Andrews: What is the status of the field accident investigation study which was to be completed in October 1981? What were the major findings of this study?

Response: The field accident investigation study was completed by the Safety Board and submitted to the Office of Management and Budget on October 16, 1981. We have received no official comment from OMB as of this date on the study. However, in the interim we have taken action to implement, effective January 1, 1982, the major findings of the study and are in communication with the FAA regarding revisions to the interagency agreement specifying the distribution of aviation accident responsibilities between our two agencies.

The study identified alternative criteria that could be used by the Board in determining whether to investigate a particular aircraft accident, assessed the feasibility of delegating more field investigations to the Department of Transportation, and reviewed surface mode practices. The study findings resulted in changing the criteria applied by the Board in the in-depth investigation of general aviation accidents from one of investigating almost all fatal accidents (with FAA investigating most other accidents for the Board) to one of investigating those accidents: involving maintenance of public confidence in the aviation system (e.g., commercial passenger service); raising issues of continuing oversight (e.g., ATC involvement in accidents, newly certificated aircraft); requiring Safety Board expertise (e.g., inflight breakups, fires or turbojet aircraft); or involving current high priority safety issues or accidents with a high potential for prevention (e.g., inadvertent flight into severe weather, instructional flying, engine failure on light twin engine aircraft). FAA, under this arrangement, would investigate for the Board those accidents involving fatalities or injuries which did not meet the criteria for Board investigation; while the Board would collect data on all property damage accidents, sufficient to aid in problem identification and study of accident trends, but of a lesser amount than that collected from its other in-depth investigations. Other general study findings were that no improvements in economy or efficiency could be achieved by delegating more field investigation to the Department of Transportation, and that the approach to selecting accidents for investigation developed in the aviation mode could be applied in a number of respects to the surface modes as well.

NEW RAIL HIGHWAY AUTHORITY

Senator Andrews: The Board has recently been authorized to take on additional responsibilities in the areas of rail and highway safety; please detail what these responsibilities will involve. In light of these additional responsibilities, how do you justify the personnel decrease of 58 percent in rail and 23 percent in highway in your FY 1983 budget?

Response: The Independent Safety Board Act Amendments of 1981 provided that any accident investigation conducted by the Board (except in the marine mode) would take priority over any other investigation of such accident conducted by other Federal agencies. It also gave the Board more explicit authority to examine and test physical evidence in the surface modes than the Board had previously. None of these additional authorities, however, spoke to the number of such accident investigations which the Board would conduct in the rail and highway modes; they merely clarified that when the Board conducted an investigation, other agency investigations would be subordinated to the Board's investigation. The Board is very concerned that at the very time it has been assigned preeminent accident investigative authority, it has been forced to reduce the number of investigations to which that authority applies. As detailed in our budget submission, however, we have reduced all other expenditures to the absolute minimum consistent with continued operation, and therefore had no alternative but to reduce investigative activities in order to operate within the appropriation approved for FY 1982 and proposed for FY 1983.

R AND D BUDGETS

Senator Andrews: Recent budget cuts in the Transportation area have resulted in some reductions of R and D funding in certain agencies. Has the Board looked at some of the cuts made over the last year to assess what the possible safety impact of discontinuation of some R and D programs might be? If so, please provide information on those cuts which you think could affect transportation safety.

Response: NASA Research and Development funds were reduced by $40 million from FY 1981 to FY 1982. This obviously affected NASA's research in a number of areas vital to aviation safety, including the following:

- Human Factors research, including flightcrews and air traffic controllers.
- Air crashworthiness and fire safety.
- Antimisting jet fuel research.
- Weather hazard detection and avoidance.
- Runway condition research and testing.
- Improved flight simulators.
- Wake Vortex alleviation.
- Advanced Flight Data Recorder.
- General Aviation Safety Programs.

DOT budget cuts have had a serious effect on the following:

- FRA R & D including the potential termination and dispostion of FRA's programs at FRA's Test Center at Pueblo, Colorado
- Curtailment of many programs at FRA's Test Center at Pueblo
- Curtailment of programs at NHSTA's research facility at East Liberty, Ohio
- Reduction of the U.S. Coast Guard's R & D budget from $25 million in FY 1981 to $18 million in FY 1982 caused elimination of:
  - Future Vessel Traffic Service System
  - Fire testing at C.G.'s facility at Mobile, Alabama
  - Hazardous material containment and fire/explosion prevention
  - Use of lighter-than-air vehicles for search and rescue surveillance
- FAA's Aviation Safety Budget was cut from $11.3 million in FY 1981 to $5.2 million in FY 1982. This has caused the FAA to prioritize its research activities and to defer or extend the time table on many programs. Some of the programs affected are:
  - Alternatives to antimisting jet fuels
  - Icing
  - Propulsion
  - Digital Flight Controls

Senator Andrews: Have you observed any consolidation or coordination of R & D as relating to safety functions within DOT during the past year? How about regarding NHTSA and FHWA or FHWA and FRA?

Response: In general, there has always been extensive coordination between the DOT Administrations in areas of mutual interest. This is particularly true of NHSTA and FHWA on motor vehicle regulatory activities. Also, the U.S. Coast Guard is coordinating with the Maritime Administration R & D in the prevention of ship collisions, rammings, and groundings; both agencies are investigating the use of simulators as a substitute for sea time in officer qualification.

PRODUCTIVITY

Senator Andrews: During last year's hearing, productivity data was introduced into the record indicating that the Board had established a goal of achieving a 5 percent productivity increase each year. According to page 9 of this year's budget, you achieved a 17.9 percent increase in productivity between 1980 and 1981. This looks very commendable but your figures are a little confusing. Last year, you used 1968 as a base year and had a productivity index for 1980 of about 150. This year, using 1977 as a base, you have a productivity index for 1980 of 187.9. How do you account for these changes particularly since 1977 was an exceptionally unproductive year due to massive reorganization and personnel shifts within the Board? How much would your productivity have increased had you kept 1968 as your base year instead of shifting to 1977?

Response: The Board's goal of a 5 percent productivity increase each year is certainly an ambitious objective especially since a concerted effort during the FY 1978-1980 period resulted in significant management improvements. There is a limit to what can be accomplished through those improvements, especially in view of the leveling-off and drop in input (employee-years) since FY 1978. This ambitious objective is further amplified when compared to the average annual percent change of 1.4 percent in productivity as computed for the period FY 1967-1980 by the Bureau of Labor Statistics (BLS) for the Overall Federal Sample.

Last year, using FY 1968 as a base year, our productivity index for FY 1980 was 152.3 as computed by the BLS for the Board in December 1980. Subsequently, the BLS submitted the final productiviy data for FY 1980 in November 1981 to the Board. This data was based on FY 1977 as a base year and resulted in a productivity index of 187.9. BLS again used FY 1977 as a base year in FY 1981. Therefore, the Board elected to use 1977 as a base year in its budget and annual report to be consistent with the BLS. The following table compares the Board's productivity increase for FY 1980-1981 based on the use of FY 1968 and FY 1977 as base years.

BASE YEAR	PROD. INDEX FY 80	PROD. INDEX FY 81	PERCENT INCREASE
1968	152.3	179.6	17.925
1977	187.9	221.4	17.829

Senator Andrews: Your productivity is expressed as the ratio of output in 12 major categories to input of employee years. Detail for the record your 1981 output by category and the weight each is given when compiling a composite productivity index. The Board makes considerable use of in-house ADP capability to increase productivity. What are your future plans for computer hardware and software and what will be the impact on productivity and staffing? Have quantitative productivity increases been measured which resulted from the recent upgrading of the data processing systems?

Response: OPM's productivity measurement system specifically expresses (productivity) as the ratio between the volume of products or services produced (employee-year inputs). In the case of the Safety Board, output is based on 12 major products including Major Investigations, Field Investigations, Safety Recommendations, etc. Since the Board has more than a single product, a composite output index must be constructed through the use of base-year unit employee-year weights. The quantitiy of each of the 12 products produced each year (output) is weighted by the number of employee-years required to produce one unit of that output in the base year. Therefore, those products, e.g., Major Investigations which required more labor time to produce in the base year are given greater weight in the composite output measure. As requested, the following table shows the weighted output for each of the 12 products for FY 1981 using FY 1977 as a base year.

PRODUCT/ACTIVITY	WEIGHTED OUTPUT FY 1981
1. Major Accident Investigations	185.002
2. Field Accident Investigations	165.004
3. Foreign Accident Investigations	19.557
4. Review FAA Accident Investigations	12.340
5. Safety Recommendations	55.157
6. Special Studies/Safety Effectiveness Evaluations	91.900
7. Special Investigations	77.273
8. Opinions & Orders	9.127
9. Certificates/Appeals (Administrative Law Judges)	17.335
10. Statistical Reports	12.732
11. Formal Comments on Notices of Proposed Rule Making	2.587
12. Written Responses to Public Inquiries	56.324

The development of the Board's improved accident data system will continue into FY 1983. At present, our focus is on completing screen software needed for more efficient data input. Once this phase is complete, a reevaluation of hardware needs will be made, based upon actual system operations and any additional requirements determined at that time.

Productivity impacts have been significant where systems have been completed. For example, we were able to reduce our accounting staff by 14 percent using the new interactive system. When the accident data system is finally completed, we look forward to being able to analyze a great deal more accident information, although the precise increase is not now known.

QUESTIONS SUBMITTED BY SENATOR CHILES

FOLLOW UP FROM LAST YEAR

Mr. Chiles: Last year the Agency submitted a table (p. 105) which displayed the rate of acceptance of NTSB recommendations by regulatory agencies in each mode. The Federal Railroad Administration had the lowest level of acceptance of any other agency. Why has the FRA's acceptance rate improved? Please update the table provided last year and submit it for the record.

Response: The Federal Railroad Administration (FRA) has not, in the past, clearly addressed the intent of National Transportation Safety Board recommendations. The safety needs addressed in our recommendations to

FRA are of such a nature that, in order for a response to be judged acceptable, the action must be precisely what is indicated by the recommendation. In some areas of consideration, such as track safety standards, there have been a large number of recommendations addressed to FRA and until the intent is clearly addressed, the entire group will keep an unacceptable action status.

The Safety Board's liaison with FRA has not been as intense in the past as it has with other modes. Currently (for the past 9 months) that liaison related to follow-up on safety recommendations implementation has been intensified and we hope to see results soon. Currently, the responsiveness figures for FRA are about te same as last year.

The updated table requested is below:

Rate of Acceptance of NTSB Recommendations By Regulatory Agencies in Each Mode

	1979			1980			1981		
MODE AGENCY	TOTAL	ACCEPT.	%	TOTAL	ACCEPT.	%	TOTAL	ACCEPT.	%
AVIATION									
FAA	108	93	86	123	99	87	153	70	77
HIGHWAY									
DOT	-	-	-	3	1	33	1	1	100
FHWA	4	3	75	28	15	88	25	6	75
FTC	-	-	-	1	-	-	-	-	-
NHTSA	19	10	53	13	4	38	10	2	100
RAILROAD									
DOT	3	2	66	7	5	71	3	1	50
FRA	24	14	58	13	4	57	12	2	50
UMTA	4	4	100	1	1	100	19	11	61
MARINE									
FCC	-	-	-	-	-	-	3	-	-
MARAD	-	-	-	-	-	-	3	-	-
USCG	77	47	61	83	51	61	45	6	60
PIPELINE									
DOI	2	-	-	-	-	-	-	-	-
DOT	1	-	-	-	-	-	-	-	-
MTB	5	5	100	-	-	-	-	-	-
RSPA	6	3	100	20	12	86	20	3	75

NOTE: The rate of acceptance is arrived at by dividing the total, less those for which a status has not been determined, into the number of recommendations having acceptable action:

ACCEPTANCE RATE = OAA + OAAA + CAA + CAAA / TOTAL - (OAR + ORR).

Mr. Chiles: Last year NTSB submitted a list (p. 110) of the more important recommendations in an open status that NTSB is pursuing. What is the current status of each of those NTSB recommendations?

Response: Below are the recommendations mentioned and their current status:

AVIATION

— to the Federal Aviation Administration

> Require that pilots involved in 14 CFR 135 operations be thoroughly trained on the performance capabilities and handling qualities of aircraft when loaded to their maximum certificated gross weight or to the limits of their e.g. envelope, or both. (Class II, Priority Action) (A-79-80)
>
> STATUS: Closed—Acceptable Action.
>
> The Federal Aviation Administration, in cooperation with the aircraft manufacturers and the National Aeronautics and Space Administration, utilize the results of already extensive research and accident investigation data to develop and implement major improvements in the design of transport aircraft interiors. Of particular concern are improvements in the crashworthiness of galley equipment, stewardess seats and restraining devices, and the flammability of cabin interior materials. (A-72-60)
>
> STATUS: Open—Acceptable Action.

HIGHWAY

— to the Federal Highway Administration

> Establish mandatory performance standards, and associated test procedures to be used in determining compliances, for all traffic barriers constructed on Federal-aid roads after January 1, 1982. The performance standards should first address automobiles and should be expanded for heavier passenger vehicles and trucks as research is completed to provide needed information. (Class II, Priority Action) (H-80-64)
>
> STATUS: Open—Awaiting Reply. The National Transportation Safety Board has initiated repeated staff telephone and person-to-person followup regarding this recommendation. To date, no formal written response has been received from the Federal Highway Administration.
>
> Develop program objectives for comprehensive wet weather skid resistance programs that can be used to both guide and evaluate State programs. (Class III, Longer Term Action) (H-80-52)
>
> STATUS: Open—Awaiting Reply. Repeated contact with the Federal Highway Administration, both telephonically

and person-to-person, has yielded no response from the agency. We have been told that the issue is under serious consideration.

MARINE

— to the U.S. Coast Guard

Seek authority to require the carriage of emergency position indicating radio beacons (EPIRB) on documented U.S. fishing vessels and, in the interim period, pursue all available means to encourage their use. (Class II, Priority Action) M-80-23)

STATUS: Open—Acceptable Action.

Amend 46 CFR 111.80-70(f)(1) and (2) to require the installation of a pilot light and an audible alarm to indicate power interruption to steering gear motors in the wheelhouse independent of, and in addition to those currently required to so indicate at the propulsion control station. (Class II, Priority Action) (M-77-8)

STATUS: Open—Acceptable Action.

PIPELINE

— to the Department of Transportation

Establish minimum performance standards for the prompt detection and rapid isolation of failed sections of highly volatile liquid pipelines. (Class II, Priority Action) (P-79-30)

STATUS: Open—Unacceptable Action. The Research and Special Programs Administration originally published a Notice of Proposed Rulemaking regarding this matter and the recommendation was classified as Open—Acceptable Alternate Action. However, the Administration has since withdrawn the Docket, and the recommendation is now classified Open—Unacceptable Action. We have urged the Research and Special Programs Administration to seek alternative solutions and to pursue them through research and development.

RAILROAD

— to the Department of Transportation

Require that top and bottom shelf couplers be installed on all DOT 105 tank cars as soon as possible. (Class I, Urgent Action) (R-78-58)

STATUS: Open—Acceptable Action. The Safety Board on March 12, 1980, made Recommendation R-80-10 which encompasses Recommendation R-78-58. The Department of Transportation promulgated a final rule regarding this matter on January 26, 1981.

Pending the enactment of legislation confering direct regulatory authority, require the Urban Mass Transportation Administration to establish Federal guidelines for equipment and operations, to aggressively utilize existing grant programs and investigative authority to promote conformance with Federal guidelines, and to conduct a program of substantially increased safety oversight of Federal assisted rail rapid transit systems. (Class II, Priority Action) (R-81-2)

STATUS: Open—Acceptable Action.

— to the Federal Railroad Administration

The Federal Railroad Administration (FRA), in cooperation with Association of American Railroads, develop a fail-safe device to stop a train in the event that the engineer becomes incapacitated by sickness or death, or falls asleep. Regulations should be promulgated to require installation, use, and maintenance of such a device. (R-73-8)

The Federal Railroad Administration has advised the Safety Board that devices are presently available which can stop a train if the engineer becomes incapacitated for any reason; however, time is needed to research the many problems facing operating personnel in the locomotive cab. The Safety Board believes 8 years have been sufficient time for the FRA, in cooperation with the Association of American Railroads, to develop and require the use of a fail-safe stopping device. We also believe many accidents could have been avoided if locomotives had been required to be equipped with such a device.

OVERWATER FLIGHT HAZARDS

Mr. Chiles: The following air carrier overwater hazard summary was prepared by the Institute for Survival Technology, NOVA University of Dania, Florida.

Air Carrier Overwater Hazard Summary - April, 1981

While water accidents are less frequent than land accidents, the former have the unique potential of killing large numbers of persons who have survived the initial accident event. In a land accident, occupants are relatively safe upon leaving the aircraft even if injured, or disabled. But those surviving an accident on water and forced to enter it, face several life-threatening hazards. Some have immediate effect and others persist through the moment of recovery from the water.

FAA regulations governing airline preparations for overwater emergencies, in both emergency equipment and training areas, have changed very little in the last 40+ years. These regulations are based on a "planned ditching" scenario, which assumes time to ready equipment and prepare passengers prior to water contact. We have never, in over 22 years of airline jet operation, had that type of accident.

We have had many of another type. Since 1958, 43 airline jet aircraft have been involved in unintentional water contact accidents, worldwide. All of these occurred during approach, or departure. The most distant from land was about 30 miles. Most were at night, with weather a factor. There were survivors in about 60 percent. Very little, if any, preparation time existed.

The foregoing reveals several problems. First, when these regulations were instituted the airlines were flying aircraft with a capacity of about 30 persons. Any given accident would thus involve a fairly small group of people. Today, one accident can involve hundreds. Second, it is evident that we are prepared for the wrong type of accident, one that involves warning and time, in the wrong place --far at sea. If you are equipped and trained for a situation providing time to prepare and encounter one that gives you hardly any, you face many risks.

We know the problems. One part of the regulations allows airlines to operate 50 miles from land without any type of mass flotation equipment and 7 are exempted to operate as far as 162 miles out without them, on specific routes. The majority of all aircraft therefore have no rafts aboard in the areas accident experience tells us they will be most needed.

Rafts are required on international flights, outside the distances cited above, but these are large, heavy, packages stowed in ways not supporting rapid deployment. Many of the aforementioned unintentional water contact accidents involved international flights; they are demonstrably as likely to be involved as any other. Having rafts aboard which cannot be deployed in the circumstances is the same as having no rafts at all, but FAA persistence in the planned ditching scenario ignores accident experience on the one hand, while inhibiting development of suitable equipment on the other.

Most flights arrive, or depart, over water. Further accidents there are possible. If the occupants of aircraft have no "rafts" available at all, or have rafts aboard they cannot get launched, they will enter the water dependent on the "flotation cushion," or life vest. Neither of these is suitable, for varying reasons, so having no rafts may well mean we have no flotation at all.

The FAA-Approved flotation cushion is a very weak gesture towards providing individual flotation. The U.S. Coast Guard states that such devices are not suitable for non-swimmers and children, should never be used where hypothermia is a factor and should only be used where very rapid recovery is assured. The floating position assumed by persons using the device is inherently dangerous; on the back with the head in the water. Immersion of the head accelerates hypothermia effects and will result in earlier unconsciousness and drowning. This floating position is not accurately depicted on most passenger information cards; these show a person floating vertically. Further, there is strong evidence suggesting that some of the approved flotation devices do not meet even the weak FAA criteria. In 1966, the agency conducted tests which showed that some of these devices lost required buoyancy after only minutes of use. Having determined that, the FAA neither tested all of the other similar devices, nor removed those which failed from service. The technical standard was revised (TSO C72a), but the writer has one manufactured to that standard (in 1970) which rapidly loses buoyancy. Since October, 1980, the writer has been asking the FAA if all FAA-Approved flotation cushions currently installed on all airline aircraft meet the FAA's own standards. I have received no direct answer from Washington, but persons within the agency have verbally indicated that many probably do not meet requirements. The above must be appreciated in the context that the flotation cushion is the only form of flotation on most airline aircraft.

The FAA-Approved life vest is essentially a 1930's military design, intended to be donned prior to overwater flight. On many aircraft it is stowed so as to cause problems in locating and extracting it. There have been recurring problems in passenger ability to open the bag enclosing it. This unit is excessively difficult for passengers (and some crew) to don even when given time. It is impossible for the majority to locate and don in unintentional water contact circumstances. We can expect most persons involved in future accidents, as many have in past ones, to enter the water without it, or having donned it improperly.

The nature of crew training compounds the equipment problems. Under the regulations, preparation time is assumed. The difficulties in launching rafts and getting passengers out, with little prior warning, as the aircraft is sinking are not realistically addressed. This must affect survivability, even if the aircraft is equipped with the more desirable slide/rafts, as on many "wide-body" aircraft. While we do not recommend that training for the planned ditching situation should be abandoned, we are urging that crews be prepared to respond to the vastly more demanding no-notice accident.

The following actions on overwater emergency equipment are essential to avoid large-scale loss of life in future water accidents. We must provide a means to support all aircraft occupants out of the water for a time equating the anticipated arrival of rescue units capable of recovering the entire group from the situation. That is the only answer to the variety of hazards. Persons in any water face hypothermia; the colder the water, the faster the effects. "Cold" is a relative term; we know, from past experience, that we can expect 60 percent casualties within three hours in water as warm as 64° F. Most of the offshore water is cooler than that, most of the year. In the few areas where hypothermia is not an immediate problem, sharks can be. These factors must be viewed from the time-to-rescue aspect and we have no rescue capability in terms of one or two hundred persons in offshore waters — as far as recovering most alive is concerned.

1. Use what we have right now:

   A. Every large aircraft has inflatable evacuation slides on each door. Each of these can support a lot of people out of the water, if the crew is trained to rapidly release them under emergency conditions and knows how to use them in the water. Most airlines pay only lip service to this contingency, but hands-on training in both detachment and use are required. More rapid detachment of these devices is made possible by incorporating a "detachable girt" feature. The latter is on relatively few slides at this time.

   B. Immediately replace all flotation cushions not meeting FAA buoyancy/time standards.

   C. Immediately revise all passenger information cards to depict the position assumed while using the cushion.

   D. Train all crews to the effect that water accidents are most likely during approach/departure and in how to respond to that situation.

   E. Train all crews in hypothermia control techniques. There are proven behaviors and positions which can significantly extend life expectancy. If the crew knows these an attempt can be made to direct passengers to adopt them.

2. Initiate development of a usable vest:

   A. This new unit must be stowed in a visible location, above seat bottom level.

   B. Design must support donning by untrained personnel within 15 seconds.

   C. If basic vest is not suitable for children, a suitable vest must be provided at each childs' seat.

   D. Installation of this new vest must be required on all aircraft, as soon as available, and all flotation cushions must be removed from service.

3. Life rafts for international flights:

   A. These must be made smaller, lighter and better stowed so as to support launching under unintentional water contact conditions.

   B. Use of an increased number of rafts, each having small capacity than at present, would enhance launching. Installation of slide/rafts, where possible, should be mandatory.

4. Initiate development of mass flotation devices:

   A. Such devices must be installed on all aircraft, to meet the offshore accident contingency, except those equipped as above.

   B. The main purpose of these will be to support most of the body out of the water for a time equal to time of recovery. Another important function will be to collect survivors and preclude having to search for a large number of individuals covering a large area.

   C. It may be possible to combine this function with the evacuation slide, resulting in a slide/flotation platform. Additionally, these must be located at each exit in the form of small, lightweight, packages which one person can handle.

   D. Installation of such devices must commence as soon as available.

Has the NTSB examined the adequacy of their enforcement to have full assurance that air accidents involving water result in a minimum loss of life? If yes, when was the examination made?

Should more be done in this area by FAA? Are flotation devices used by U.S. Air Carriers and approved by FAA adequate?

Response: The National Transportation Safety Board's surveillance of the adequacy of FAA's enforcement of their requirements for survival equipment is a continuing process. The visual products are special studies and safety recommendations which suggest means of improvements. In the area of water survival, the Board has made numerous recommendations and has issued a Special Study with regard to the ditching of a Supplemental Air Carrier on May 2, 1980. In response to your question, however, the Board is not assured that everything was done by the FAA to prevent the loss of life in accidents involving water impact.

Only recently, the FAA provided information to the Board that it would examine the entire spectrum of water protection criteria in passenger carrying operations. Our information at this point is that the Civil Aeromedical Institute drafted a comprehensive 30 month's study proposal which was approved by the Office of Aviation Medicine. However, no funds have been allocated by FAA Headquarters to date to start this study. Therefore, the Board is not satisfied that the FAA is moving vigorously to improve passenger protection criteria for water survival despite the fact that such improvements are long overdue. Present day flotation devices used by Air Carriers are outmoded and only minimally adequate in modern aircraft. This is especially noticeable in air carrier operations which are not equipped for extended overwater operations. The requirement that life preserver or an approved flotation device must be available for each occupant when aircraft are required to take off or land over any body of water (14 CFR 121.340) is interpreted by FAA that a flotation seat cushion meets this requirement. While the availability of seat cushions are often the only device available to passengers in an unintentional water landing and therefore better than no device at all, more modern, state-of-the-art equipment should be developed to prevent the effects of prolonged immersion and hypothermia.

WORKLOAD DATA

Mr. Chiles: The workload data (p. VII) included in the budget justification shows reduction in many areas such as Major Accident Investigation Reports, Field Accident Investigation Reports, Safety Recommendations, Inquiries from the Public and Special Investigations. Is the Agency simply cutting back on its activities because of resource limitations or do you really believe the number of accidents and work-generating events beyond your control are declining?

If it's the latter, what factors lead one to believe that these work-generating events are going to decline in 1983?

What activities, studies and functions are you strictly required to do by statute? What portion (percentage) of your workload was mandatory in this sense in 1981?

Response: The Board has been forced to cut back on its safety activities because of funding and personnel ceiling reductions. Between FY 81 and FY 83 the Board's full-time equivalent employment ceiling has been reduced 15 percent. This is in addition to a 7.3 percent reduction prior to FY 1981. However, dollar reductions may force the actual employment level even lower than projected. For example, as directed by OMB, the FY 1983 funded level includes no funds to offset the effects of the FY 1982 pay raise in FY 1982 now estimated at $730,000. These employment level considerations were taken into consideration in projecting workload output. The reduced level of workload, therefore, reflects the diminished capacity of the Board to investigate accidents, write reports, make safety recommendations, or respond to inquiries from the public as in the past and does not represent an anticipated decline in the number of accidents, safety issues, or appeals.

In reference to activities strictly required by statute, every activity currently performed by the Safety Board is specifically cited and required in the Independent Safety Board Act of 1974.

SUBCOMMITTEE RECESS

Senator ANDREWS. I appreciate your coming. We will be most interested in episode two of the continuing serial that unfolds before us when you come up next year or maybe in some supplemental hearing.

Thank you very much. The subcommittee is adjourned.

[Whereupon, at 11:35 a.m., Monday, March 15, the subcommittee was recessed, to reconvene at the call of the Chair.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

WEDNESDAY, MARCH 24, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 2 p.m. in Room 1318, Everett McKinley Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews and Kasten.

INTERSTATE COMMERCE COMMISSION

STATEMENT OF REESE H. TAYLOR, JR., CHAIRMAN

ACCOMPANIED BY:
- JANICE M. ROSENAK, LEGISLATIVE COUNSEL
- WILLIAM R. JOHNSON, MANAGING DIRECTOR
- J. WARREN McFARLAND, DIRECTOR, OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE
- WILLIAM R. SOUTHARD, DIRECTOR, OFFICE OF TRANSPORTATION ANALYSIS

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order. This afternoon we will begin hearing the Interstate Commerce Commission. We are fortunate to have the Chairman of the ICC, Mr. Reese Taylor, and a group of his associates.

Mr. Chairman, I will be glad to hear your statement. You may summarize it if you wish, and we will see that it is included in the record in full.

INTRODUCTION OF ASSOCIATES

Mr. TAYLOR. Thank you very much, Mr. Chairman. Let me begin by introducing those who I have brought with me this afternoon.

On my far left is J. Warren McFarland, who is our Director of the Office of Compliance and Consumer Assistance. On my immediate left is Mr. William R. Johnson, who is the Commission's Managing Director. On my far right is Mr. William R. Southard, who is our Director, Office of Transportation Analysis. And on my immediate right is Janice M. Rosenak, the Commission's Legislative Counsel.

Thank you, Mr. Chairman, for inviting me to discuss the Interstate Commerce Commission's fiscal year 1983 budget. With your permission, I would like to read a short summary statement and then enter the full text of my remarks in the record.

BUDGET REQUEST AND STAFFING

Since enactment of the motor carrier and rail regulatory reform legislation of 1980, the Commission has been phasing down its regulatory role. Total Commission employment has dropped by nearly 400 employees. Unfortunately, we are now preparing to lay off approximately 130 additional employees during the remainder of fiscal year 1982 in order to stay within our budget limitation.

I say unfortunately because I am indeed sorry that that action must be taken. Many excellent employees with specialized experience and expertise will lose their jobs and be lost to the ICC.

The Commission supports the President's budget for fiscal year 1983. The proposed budget of $69 million and 1,425 full-time staff-years is consistent with our efforts to eliminate unnecessary regulation while continuing to perform our statutory mandates.

However, I do not believe that we can significantly reduce our budget beyond this level unless there is additional legislative change. To that end we have sent Congress several legislative proposals, which, if enacted, would further the intent of increasing competition as well as lead to substantial budget savings at the Commission.

In the meantime, we are doing everything possible administratively to reduce operating costs. Our efforts include major reductions in computer services, printing costs, contractual services, and office space. Tight controls have also been placed on travel, use of mail, telephones, consulting contracts, overtime, and special personnel appointments, that is, those involving other than full-time permanent positions.

Programmatically, the Commission over the next 2 years will be characterized by a shifting of priorities. In the Proceedings Program, operating authority applications are down significantly from the peak period immediately following the enactment of the Motor Carrier Act. However, the Commission is still faced with a heavy caseload, including many complex decisions in the rates and finance areas. These include decisions involving rail exemptions, rail complaint cases filed under section 229 of the Staggers Act, the entire coal rate issue, and major rail mergers and abandonments.

In the Policy and Analysis Program, with significantly reduced staff, we will focus our attention on evaluation of the reform legislation, including the performance of studies mandated by the acts and review of legislation and Commission functions to see if amendments or new proposals are desirable.

The Policy and Analysis Program will continue to include the functions of our Rail Services Planning Office, with special emphasis on its outreach activities.

Our compliance and consumer assistance activities will shift toward monitoring specific carrier and shipper problems and improving our responsiveness to the public rather than performing general compliance surveys. Again, this will be performed with significantly less staff.

More staff will be devoted to enforcement efforts so that we can pursue abuses of a serious nature. We are particularly concerned about carriers operating without proper insurance, with unsafe equipment, or who engage in significant unauthorized transportation or anticompetitive practices. Felony violations for weight bumping and lumping will also be matters of high priority as a result of the reform legislation enacted in 1980.

Clearly, the Commission is going through a period of substantial change and adjustment. We intend to advance the transition by proposing further change when and where appropriate, subject, of course, to congressional guidance and approval. Our goals can be achieved with the $69 million and 1,425 staff-years that we are requesting for fiscal year 1983.

I would be pleased now, Mr. Chairman, to respond to any questions or concerns that you might have.

PREPARED STATEMENT

Senator ANDREWS. Your prepared statement will be inserted in the record at this point.

[The statement follows:]

STATEMENT OF REESE H. TAYLOR, JR.

Thank you for inviting me today to discuss the Interstate Commerce Commission's Fiscal Year 1983 budget. I will keep my remarks brief, giving you some background on how we arrived at the estimate and some highlights of the policy implications. Then, I will answer any questions you have.[1]

Since enactment of the major reform legislation of 1980 which deregulated large portions of the trucking and rail industries, the Commission has been phasing down its regulatory role. At the Commission, this has resulted in considerable staff reductions over the past two years. Since passage of the Motor Carrier Act in July 1980, total Commission employment has dropped 25 percent, a reduction of nearly 400 employees. Most of this was accomplished through the Commission's own initiative. The focus of the President and the Congress on reducing Federal spending has to some extent been a factor in the timing of the reduction, but it has not changed our general perspective. The limitations of our Fiscal Year 1982 appropriation will probably necessitate a layoff of more than 130 employees in order to permit the Commission to stay within approved spending levels. I am indeed sorry that this action must be taken. Many excellent employees with specialized experience and expertise will be irreplaceably lost.

The President's budget for FY 1983 calls for further reductions. However, the proposed budget of $69 million and 1,425 full-time staff-years is a level that will allow us to perform our statutory mandate and a level that I believe we can attain without further undue burden or disruption of remaining Commission employees. For these reasons, I support the President's budget for the Commission.

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[1] Commissioner Sterrett was not a member of the Commission at the time the Fiscal Year 1983 budget was formulated.

I would emphasize, however, that, by the end of FY 1983, our employment will have reached a level that should not be further reduced unless there is legislative change. We have had enough experience under the 1980 legislation to suggest legislative refinements. This is particularly true with regard to the Motor Carrier Act. To that end, I put together a legislative proposal which the Commission approved for submission to Congress and which was in fact sent forward on February 10, 1982.[2] Enactment of this proposal or similar amendments to the Motor Carrier Act would not only further the intent of the original Act by increasing competition through freer entry, but could in the long run allow for additional budget savings by the Commission, if not balanced by additional responsibilities or increases in workload resulting from activities in other areas.

Specifically, the proposal recommends that entry into the trucking industry be based on fitness only, and that the current requirement that trucking companies prove the existence of a public demand or need for their service be eliminated. This would relieve applicants of the burden of providing evidence of shipper or other support. It would also allow the Commission to develop a standardized test for determining a fit, willing, and able applicant, so that applications could be processed more efficiently and equitably by the Commission. I should add that my proposal will relieve carriers and shippers of a substantial paperwork burden.

We have also proposed a more efficient system for handling temporary and emergency temporary authority applications. The new system would combine the two procedures so that temporary authority applications are emergency oriented and can also be used to apply for permanent authority. Needless duplication would be eliminated, saving time and money for both the carriers and the Commission. Again, a legislative change would be needed to implement the proposal.

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[2] Commissioner Gresham, issued a separate expression to the legislative proposal which was submitted on February 10, 1982. He believes that unless safeguards like those described in his separate expression are made part of the proposed legislation, the ultimate result could be more limited entry into the motor transportation industry and less competition.

An additional legislative proposal that could result in significant dollar savings is the substitution of publication by the Commission, in lieu of the Federal Register, as the means of providing notice to the public of applications for motor carrier authority. Under current procedures, we will spend an estimated $6 million for Federal Register publication during FY 1981, FY 1982 and FY 1983.

Other reforms are being developed. I have established a task force to examine Commission regulations to determine their appropriateness in today's environment and their benefits relative to their costs. Of 150 regulations examined thus far, 76 have been targeted for modification or elimination, and by September of this year, we anticipate having acted upon 40 of the 76. While most of this reform activity will not yield significant budget savings to the Commission, much of it will result in substantial savings to our regulated carriers in terms of time, paperwork and money.

We are also doing everything possible to minimize our operating costs at the Commission. Cost-saving proposals have been solicited and received from staff throughout the Commission. Many of these should produce substantial savings. Data processing costs are being reduced by nearly $1 million by eliminating or modifying discretionary and peripheral systems. Printing costs will be reduced by nearly $500,000 by limiting press box service to the working press. The Commission is also reducing the amount of office space that it occupies; this action will save us $1.1 million in FY 1983. However, the dramatic increase in rent that we pay to GSA has become a matter of extreme concern. Between FY 1982 and FY 1983, our average cost per square foot of office space will increase from $8.79 to $18.35. At our Washington office, space costs will exceed $20.00 per square foot. This means that despite a reduction in the amount of space we occupy, the standard level user charge for FY 1983 will increase to $7,868,000. In contrast, our standard level user charge for FY 1982 is estimated at $4,481,000. An increase of this magnitude (over $3.3 million) is particularly burdensome on a small agency like the I.C.C., which has no program funding in terms of grants or subsidies that can be adjusted to offset the increase.

Other cost-saving measures that are being initiated include tightened controls on mail, telephones and long-distance calls, building services, consulting contracts, overtime, special personnel appointments, and administrative travel.

Programmatically, the Commission will continue to strive for efficiency without sacrificing our ability to meet statutory responsibilities. The Proceedings Program will be characterized by a declining workload in the area of operating authority applications, while the rates and finance caseloads should remain relatively stable. During FY 1981, operating authority applications reached a peak of nearly 21,000 new filings. In addition, a substantial backlog was eliminated so that total file closings exceeded 30,000. New filings in FY 1982 are running at an annualized rate of approximately 16,000, with FY 1983 expected to remain stable or decline slightly.

The Commission will face a number of major rate decisions over the next two years, particularly with regard to coal shipments. In addition, we face severe potential workload problems due to the rail rate complaint cases filed under Section 229 of the Staggers Act. Over 800 of these complaints, challenging rates in existence prior to October 1, 1980, were filed by shippers before the statutory deadline. Some of these cases have been settled, and we are continuing to encourage voluntary resolutions by and between the parties involved. Nevertheless, the fact remains that hundreds of these complex proceedings may have to be litigated. As of this date, approximately 600 cases are still pending.

In the finance area, we expect to reach decisions during FY 1982 on the three important rail merger cases now pending before the Commission. More merger applications are likely in FY 1983. We will also be deciding a large number of abandonment cases, including approximately 340 Conrail applications filed under the Northeast Rail Service Act of 1981.

We are reducing staff and changing the focus of our Policy and Analysis Program. Work will concentrate on evaluation of the reform legislation, including performing studies required by the three 1980 legislative enactments. I am pleased with the work we have done thus far in preparing legislative proposals and reviewing our own regulations to weed out those that are no longer necessary. Along these same lines, I have established a Statutory Review Committee to review various legislatively-mandated Commission functions to identify areas where the Commission might consider divesting itself of substantive regulatory jurisdiction. One area currently being examined by the Committee is the Commission's regulatory responsibility with respect to securities and the extent to which there is duplication or overlap between our role and that of the Securities and Exchange Commission. Suffice it to say now that the Committee's efforts should result in additional legislative proposals.

Several changes are being made in connection with the responsibilities of our Compliance and Consumer Assistance Program so as to improve our responsiveness to the public and effectuate a meaningful enforcement program. Recently, the

Commission approved a proposal to abolish our headquarters consumer hotline and complaint tracking system. This was a very costly system, with communication, ADP and personnel costs exceeding $550,000 per year. The alternative that we are implementing is a "back to basics" approach whereby complaints will be handled directly by the Commission's field staff.

The result will be a streamlined and more efficient complaint processing. The number of frivolous complaints, which are inevitable when toll-free service is provided, will be reduced, while the interaction between field staff and local carriers and shippers will be increased. The complaint system is an extremely important aspect of the Commission's workload. It provides "grass roots" information on industry climate and trends. This information is basic to our policy initiatives and enforcement activities.

The Enforcement Program will be given greater priority over the next two years. Staff efforts will shift away from general compliance surveys and will focus on specific problems in the surface transportation industry. We do not intend to establish "gumshoe" operations, but we do intend to pursue abuses of a serious nature. We are particularly concerned about carriers who operate without proper insurance, who have unsafe equipment, or who engage in unauthorized transportation or anti-competitive practices. Under the recent motor carrier and household goods legislation, the practices of weight bumping and lumping have been made felonies. These types of abuses will receive particular attention from our enforcement staff.

Our testimony has focused on implementation of legislation that is in place and legislation that we have recently submitted to Congress. I should note that the Commission's workload may be impacted by passage of legislation that is presently under consideration, particularly the bus legislation, which has passed the House and is now the subject of Senate hearings (H.R. 3663), and coal slurry legislation. Both bills, if enacted, would increase the Commission's workload in FY 1983.

Clearly, the Commission is going through a period of substantial change and adjustment. We intend to advance the transition by proposing further change when and where appropriate, subject, of course, to Congressional guidance and approval. Our goals can be achieved with the $69 million and 1,425 staff-years that we are requesting for Fiscal Year 1983.

Now, I would be pleased to respond to any questions or concerns you may have.

Fiscal Year 1982 Supplemental Request

Thank you for inviting me today to discuss the Interstate Commerce Commission's Fiscal Year 1982 supplemental budget request for directed rail service payments.

The need for additional funds arises out of service performed by the Kansas City Terminal Railway Company over the lines of the bankrupt and cashless Rock Island Railroad. While the actual service took place during the period between September 1979 and March 1980, standard railroad operating practices and accounting rules established by the American Association of Railroads allow certain types of billings to continue for as long as 7 years after service takes place.

As I am sure you are aware, the Commission would like to complete the directed service and the final accounting as quickly as possible. However, as long as there are still unpaid claims, in the form of both revenues and liabilities, the Kansas City Terminal/Directed Rail Carrier (KCT/DRC) must maintain some type of accounting operation to process them. In order to close out the accounting and still give all parties sufficient time to file legitimate claims, the Commission has ordered the directed rail carrier to terminate its accounting functions on March 31, 1983. Although this order is not in accord with AAR's accounting rules, we believe that this period will allow ample time for the filing of claims while providing for the orderly ending of the claims settlement operations and preventing the incurrence of unnecessary accounting operation expenses.

In order to continue operations through March, 1983 and pay all legitimate vouchers, we are requesting $8 million in supplemental funds. We probably would not have to make this request if there were not pending litigation to determine whether the directed carrier owes the Rock Island for the use of its track and equipment during the directed service period. Until the courts reach a final decision on this matter, approximately $14 million that we believe is owed by the Rock Island to the directed carrier cannot be collected. A preliminary decision by the court has favored the directed carrier, so we are reasonably confident that the $14 million will be collected eventually.

In the near term, timing has become a matter of particular concern. The cash reserves of the KCT/DRC are being rapidly depleted. It is unlikely that it can continue accounting operations until regular supplemental appropriations are passed. Our current projection is that cash will be exhausted by this coming March or April. Therefore, we request that this supplemental appropriation be considered on an urgent basis. In the meantime, we will continue to explore any potential funding alternatives.

I would be pleased to respond to any questions you may have on this matter.

INTERSTATE COMMERCE COMMISSION
FY 1983 APPROPRIATION HEARING
SEATING CHART

AUDIENCE

William R. Southard Director, Office of Transportation Analysis	Janice M. Rosenak Legislative Counsel	Reese H. Taylor, Jr. Chairman	William R. Johnson Managing Director	J. Warren McFarland Director, Office of Compliance and Consumer Assistance

WITNESS TABLE

SUBCOMMITTEE MEMBERS

MR. ANDREWS

BIOGRAPHICAL SKETCHES

REESE H. TAYLOR, JR.

Reese H. Taylor, Jr., took the oath of office as a Commissioner of the Interstate Commerce Commission on June 25, 1981, having been appointed as a Republican member and designated as Chairman by President Reagan. He was appointed by President Reagan on May 4, 1981, and confirmed by the Senate on June 16, 1981, for a term ending December 31, 1983.

From 1971 until 1978, the Chairman was a partner in the law firm of Laxalt, Berry & Allison located in Carson City, Nevada. In March of 1978, the firm was reorganized and incorporated as Allison, Brunetti, MacKenzie & Taylor, Ltd., and it is from this firm that Mr. Taylor came to the Commission. His practice consisted primarily of administrative law with particular emphasis on regulatory matters pertaining to public utilities and transportation companies.

From 1967 to 1971, Mr. Taylor was Chairman of the Public Service Commission of Nevada and a member of Governor Paul Laxalt's cabinet and his Civil Defense Advisory Counsel. During his period in State government service, the Chairman was active in the affairs of NARUC as a member of the NARUC Committee on Gas; Chairman of the Ad Hoc Committee on CATV Regulation; and Secretary-Treasurer and First Vice Preisdent of the Western Conference of Public Service Commissions. He also served as Vice-Chairman of the Nevada Tax Commission from 1967 to 1969.

Chairman Taylor was associated with the law firm of Gibson, Dunn & Crutcher in Los Angeles from 1952-1958. From 1959 through 1965, he was engaged in private law practice in Los Angeles and Beverly Hills, California. In 1966 and early 1967, he was associated with Wiener, Goldwater & Galatz in Las Vegas, Nevada.

Chairman Taylor received his B.A. with distinction from Stanford University in 1949 and his LL.B. from Cornell Law School in 1952.

He is a member of the State Bars of California and Nevada and the American Judicature Society, the American Bar Association, the Washoe County Bar Association, and the First Judicial District Bar Association of Carson City, Nevada.

He is married to the former Jolene Yerby and has three children by a previous marriage.

WILLIAM R. SOUTHARD

Dr. William R. Southard, Director, Office of Transportation Analysis, is a transportation economist who has held various economics-related and managerial positions during the eight-and-a-half years he has worked at the Commission.

Dr. Southard, 48, served as assistant regional director for consumer assistance in the ICC's Boston, Mass. regional office. In this post, he was responsible for all ICC consumer-related and compliance activities in an eight-state area.

Before assuming his Boston Post in 1980, Dr. Southard was the chief of the Economic Analysis Branch and acting deputy director for analysis of the ICC's Office of Policy and Analysis. He earlier held posts with the ICC's former Bureau of Economics and was special projects manager in the ICC's former Bureau of Enforcement.

Prior to joining the ICC in May of 1973, Dr. Southard from 1969 to 1973 was a member of the faculty of the University of Oklahoma and from 1966 to 1969 was on the faculty of the University of Missouri. He earlier was employed for a number of years as an industrial transportation manager in private industry.

WILLIAM R. JOHNSON

William R. Johnson became the Interstate Commerce Commission's Managing Director on July 6, 1981.

Mr. Johnson, 47, had been Manager, Government and Community Relations for the Citizens Utilities Company of California since May 1977. In that position, he was responsible for all government and community relations in California. A 1956 graduate of the University of California, Mr. Johnson held the post of ICC Managing Director from January to March 1977.

Mr. Johnson's government experience in management includes posts as Executive Director of the California Public Utilities

Commission from 1972-76; Executive Secretary of the Arizona Corporation Commission from 1970-72; and Assistant Executive Director of the Arizona Coliseum and Exposition Center from 1968-70. From 1960 to 1968, Mr. Johnson held various positions with the Kaiser Steel Corporation including the post of resident sales representative.

JANICE M. ROSENAK

Janice M. Rosenak, the Commission's Legislative Counsel, is a graduate of Marquette University Law School, Milwaukee, Wisconsin. Mrs. Rosenak previously served as Transportation Counsel for the Senate Commerce Committee. Prior to joining the Committee in 1979, she held various positions at the ICC, including Deputy Director of the Office of Proceedings, Administrative Law Judge, and Staff of Former Commissioners John W. Bush and Howard Freas.

The Office of Legislative Counsel is responsible for developing legislative proposals, preparing testimony, insuring that our legislative policy is well presented, in monitoring progress of the proposals throughout the Congressional process.

J. WARREN McFARLAND

Mr. McFarland is a native of Florida and attended the University of Florida. From 1942 to 1965, he was employed by the Atlantic Coast Line Railroad Company in various operating positions in Florida.

He is a veteran of the U.S. Navy in World War II. He was Commissioned in the U.S. Army Reserve Transportation Corps in 1949 and remained active in the reserve program until his transfer into the Retired Reserve in 1976.

Mr. McFarland joined the Interstate Commerce Commission in 1965 and served as a Railroad Service Agent in Chicago and Atlanta, a Transportation Specialist in Atlanta and as Assistant Regional Director in Chicago. He was head of the Commission's Region 6, in San Francisco, from 1973 to 1981.

On October 1, 1981, Mr. McFarland was appointed Director of the Commission's Office of Compliance and Consumer Assistance, in Washington, D.C.

Senator ANDREWS. It has been reported, Mr. Taylor, that you recently stated you expect the ICC to be sunsetted. In your opinion, will this be possible while insuring no disruption to interstate commerce?

Mr. TAYLOR. That is probably as complicated a question, Mr. Chairman, as anybody could ask.

Senator ANDREWS. That is why I asked it. [Laughter.]

Mr. TAYLOR. I learned early on, when I got to Washington, that you are just not a certified deregulator if you do not accept sunset at least at some point in time. The problem that I have is concern about disrupting industries that have been regulated for many years.

Under the theory that one picture is worth 10,000 words, I might show you our graphic illustration that we prepared for Senator Danforth and certain other people on the Hill with regard to where I am and where I think the Commission is insofar as sunset is concerned. I hope you will be able to see it from there.

Senator ANDREWS. Yes.

Mr. TAYLOR. You can see all of the people that are there.

Senator ANDREWS. It looks like the loaves and the fishes.

Mr. TAYLOR. It is a couple of divers. The symbolism that is described, which I would like to just briefly go through, is as follows: I think deregulation of the motor carrier and railroad industries can best be compared to bringing two deep-sea divers up from the murky depths of regulation to the fresh-air surface of the marketplace.

As shown by our illustration, one of the divers, Mac, represents the motor carrier industry and the other diver, Ray, represents the railroad industry. Both divers have been at or near the bottom for many years, and, therefore, they are encrusted with barnacles and entangled in seaweed, which we call unnecessary and unneeded regulation, which certainly has to be removed through regulatory reform to facilitate a free ascent to the surface.

The bottom represents a regulated environment, although Mac is depicted as being somewhat above the bottom by virtue of both the Motor Carrier Act and the Household Goods Act of 1980, while Ray is a little bit more elevated by virtue of the Staggers Act.

An octopus at the bottom, Reggie—and we added him, by the way, at Congressman Adam Benjamin's suggestion—represents, through its entangling tentacles, regulatory delay, regulatory redtape, regulatory filing requirements, regulatory paperwork, and so on.

The air hoses of the divers lead to the surface through murky, turbulent waters, such a stormy sea being representative of the present state of the economy. The currents cause orientation problems, and the clouded water limits visibility.

A shark, Stan, representing stagflation, swims at the upper levels. For Mac and Ray to make it safely to the surface, Stan will have to be relegated to the depths so as to eliminate the threat he poses.

On the surface are two support ships, the SS *Competition* and the SS *Free Market*, which represent the ultimate surface destinations for the divers.

The setting sun is illustrative of the end to the ICC's regulatory jurisdiction only when Mac is safely aboard the SS *Competition* and Ray safely aboard the SS *Free Market.*

Now, the critical part of the entire operation, which is perhaps responsive to your question, is the ascent itself. Both divers have been dislodged from the bottom and we think can be brought safely up to the surface, but if they are jerked to the surface in one fell swoop, they will suffer from the bends and will undoubtedly be resubmerged and reregulated for decompression.

The challenge is to bring each diver up to a given level, allow him to decompress at that level, and then bring him up some more. The levels are designated by the pennants on each diver's air hose.

Although not visible at the helm, Congress is in command, in our view, of both the SS *Competition* and the SS *Free Market.* Accordingly, congressional action will be required to approve the ICC's proposed number and position of each of those pennants on each diver's air hose, and the question of how long it is actually going to take to bring Mac and Ray up out of the water, we feel, is a matter that only Congress can decide.

I hope that is responsive.

Senator ANDREWS. Well, it is a beautiful scenario. I asked for a short jingle and I got a symphony.

Do you anticipate that you can do it with no disruption?

Mr. TAYLOR. We think we can do it with a minimum of disruption. Of course, there will be some disruption or dislocation. I suppose that was anticipated.

SUNSET TIMEFRAME

Senator ANDREWS. When would a sunset be practicably possible?

Mr. TAYLOR. I think that is a question that I can't answer because we have to go a level at a time. We have to study very carefully what has happened. That is where we are now, trying to review what happened as a result of the passage of the Motor Carrier Act of 1980 before we take another step.

Senator ANDREWS. That response negates the first answer. First you said, yes, we can sunset it; second, you say you don't know when. Bureaucrats can stay on ad infinitum, ad nauseum.

Mr. TAYLOR. I think there is a point in time when the ICC can be sunset. I think it can be fairly soon, but I think it would be ridiculous for me to pick out a year and say we are going to do it, as some have, by 1987.

Senator ANDREWS. Are you talking about less than 5 years? Less than 10 years?

Mr. TAYLOR. I think it would be possible in less than 5 years, and I think a 5- to 10-year timeframe would be a reasonable one. But to pick out an arbitrary date before we know the impact of what we have done, as we gradually allow our divers to decompress, I just don't think it can be done.

EFFECTS OF DEREGULATION

Senator ANDREWS. Because of recent administration initiatives in the area of deregulation, trucking, rail, and airlines, the transportation marketplace will be changed considerably in the coming years. What do you think these changes will be? Do you see any potential for conflicts?

Mr. TAYLOR. I think we are going to have an awful lot more competition. Obviously, some of the people who have survived in the past will not survive in the future. In the rail area I think there is no question we will have fewer carriers.

We are already, as I am sure you are aware, confronted with a number of merger and consolidation cases. We are going to announce one, as a matter of fact, tomorrow, so it is going to be a different ball game. I think it is going to be a more competitive one.

In the rail area, there may be fewer of the bigger fellows competing, but I think there will still be a good footrace going on and lots of competition. We look forward to that. I think that will benefit shippers, the public, all concerned.

SERVICE TO SMALL COMMUNITIES

Senator ANDREWS. We found also that deregulation has led to an awful lot of rail abandonment in the less densely populated areas of the country. Railroads are attempting to pull out of branch lines. The committee addressed itself to that last year because it felt they were simply going too far.

Since then, the railroads have seen fit to decide that maybe they were being a little too hasty. In the case of trucking deregulation, we have a lot of smaller towns that probably won't get any trucking service based on deregulation now. We have towns in my State that used to have airline service that no longer have airline service because of this type of deregulation.

Is this going to continue? Are we going to find that under deregulation the smaller towns and rural America are just going to be totally abandoned by the railroads, by the truckers, and by the airlines?

Mr. TAYLOR. I don't think they will be totally abandoned, Senator. I am very concerned about service to small communities in sparsely populated rural States, since I come from one myself. I just do not think that is going to happen.

Our experience has been, insofar as Florida is concerned, which is one of the States—not like either North Dakota or Nevada—somewhat more densely populated, but where they have experimented with deregulation, and the consequences have not been particularly adverse to date.

We know there have been some disruptions in the bus area, for example. We had a carrier quit who was serving between Reno and Ely, Nev., which is a little town in the eastern part of the State, but substitute service was eventually found, and it has worked out.

It is less difficult in the trucking area because it is easier to find somebody who has a truck or can buy a truck or make some other adjustments. We have a small community study that is underway. The only statistics we have are for a 6-month period in 1980. It is not conclusive, but so far all of the indications are—and all three phases will be complete and submitted to Congress by September of this year—that service to small communities has not suffered that much, at least as far as the trucking area is concerned.

In the rail abandonment field, we are trying to watch those very, very carefully. We sent our Rail Service Planning Office people out to North Dakota, as a matter of fact.

RAIL ABANDONMENT GUIDELINES

Senator ANDREWS. Last year our conferees urged that the Commission utilize the Rail Services Planning Office to develop a set of guidelines for those States faced with rail abandonment. What is the status of that project?

Mr. TAYLOR. I can simply say that we are involved in it. We have been in North Dakota. If I might, Mr. Chairman, I would like to call on Mr. Southard to give you some specifics.

Senator ANDREWS. When do you feel you are going to come up with this set of guidelines?

Mr. SOUTHARD. Mr. Chairman, we have a brochure out now, and my people in the Rail Services Planning Section are developing the guidelines. I am told that within roughly a month they will be——

Senator ANDREWS. So your gestation period will come to an end in a month and you will give birth to these guidelines?

Mr. SOUTHARD. Yes, sir.

Senator ANDREWS. Will you share the results with the committee when the guidelines are final?

Mr. SOUTHARD. Absolutely. In the meantime, we have this limited brochure.

Senator ANDREWS. If you can provide that for the record at this point, it would be appreciated.

[The information follows:]

RAILROAD ABANDONMENTS

Staggers Act Changes

The Staggers Rail Act of 1980 revised the Commission's procedures regarding rail abandonments and offers of financial assistance. This package is intended to present a concise overview of the new regulations governing these procedures. This summary is designed to assist in understanding the new procedures, and does not change or supercede the regulations themselves, which are in the Code of Federal Regulations at Title 49, Part 1121.

Role of Rail Services Planning

The Commission's Section of Rail Services Planning (RSP) has worked extensively with shippers and communities in the area of abandonments and alternatives. RSP has provided information regarding Commission procedures and policies during the Conrail restructuring, the Milwaukee Road embargoes and abandonments, and the Rock Island directed and interim service. RSP assistance to the public (shippers, communities, agencies) is general in nature, but detailed enough to allow interested parties to effectively participate in abandonment cases and consider options such as purchase and subsidy. While RSP does not have the resources to provide counsel or defense for individual cases, we can provide various parties with technical and legal advisory assistance to better understand the issues. RSP's phone number is 202-275-3326.

Highlight of Package Contents

This advisory package contains the following information:

- Summary of the Commission's Abandonment Procedures
- Flow Chart of the Abandonment Process
- Flow Chart of the Offers of Financial Assistance Process
- Summary of Public Participation Procedures

SUMMARY OF ABANDONMENT PROCEDURES

Statute: 49 U.S.C. 10903 - 10905 ICC Regulations: 49 C.F.R. 1121

STEP 1: Placing the line in Category 1 on the railroad's System Diagram Map

The purpose of the Category 1 filing is to give the public advanced notice of those lines which will be the subject of abandonment applications within 3 years. The system diagram map is a useful tool to determine which lines of a particular carrier are threatened with abandonment. A line must appear in Category 1 for at least 4 months before an abandonment application can be filed. In addition to Category 1, the system diagram map includes a Category 2 which lists those lines that are under consideration for possible abandonment in the future. Category 3 is used for lines where abandonment applications are currently pending before the Commission. Carriers file SDM with the Commission, Governor, Designated State Agency, and Public Service Commission. Request for copies of the map may be made with the carrier.

STEP 2: Service of the Notice of Intent to Abandon

The purpose of the Notice is to apprise the public that the abandonment application is about to be filed. Certain state agencies and significant users on the line must receive the notice at least 15 but no more than 30 days prior to the application's filing with the Commission. The Notice is also posted in stations and published in a local newspaper. Basically, the Notice identifies the line, the specific date for the application's filing, the reasons for the proposed abandonment and procedures for public protest and comment.

STEP 3: Filing of the Abandonment Application

The application contains the railroad's case for abandonment. It includes information regarding the applicant and its financial status, the condition of the line, the service provided on the line, specific revenue and cost data, and rural and community impact. The application must be served on the Governor, Public Service Commission and designated State Agency. Also, the applicant must furnish a copy to any interested parties proposing to file protests or written comments.

STEP 4: Public Participation/Protests and Written Comments

The public has an opportunity to protest an abandonment within 30 days of the date the application is filed. If the abandonment is not opposed within this 30-day period, the ICC must grant the abandonment. The filing of a protest does not guarantee that the Commission will conduct an investigation. The Commission's decision to investigate, which is wholly discretionary, is based on an analysis of the protest and written comments. As a result, it is critical that the protests be substantive and well developed. Protests must include information concerning the identity of the protestant; the specific reasons for opposing the abandonment; any rebuttal of information or material submitted by the applicant, requests for oral hearings; and input concerning any intent to make offers of financial assistance, community and rural impact, etc.

STEP 5: Commission Investigation

The Commission will decide within 45 days of the filing of the application (15 days after protests are due) whether to hold an investigation. Investigations are conducted by modified procedure (the exchange of verified statements) or oral hearings. It is at this stage that the public has the opportunity to make its case for retention of service and to rebut the railroad's data. Major factors considered by the Commission are: Present and future traffic;economic burden on carrier; deliberate downgrading; alternative transportation; opportunity cost; community impact; and energy environment. Based on an analysis of the record, the Commission will decide whether to grant the abandonment. Investigations will be completed within 135 days of the application's filing (i.e., a 90-day investigation period).

STEP 6: Commission Decision and Certification

The Commission has strict statutory time frames to follow in deciding abandonment cases. If the abandonment is unprotested, the

Commission must issue, within 45 days of the application's filing, a certificate which permits abandonment to occur within 75 days of the application's filing. In the case of protested cases, which the Commission has decided not to investigate, a decision whether to abandon must be made within 75 days of the application's filing. If the decision permits abandonment, the ICC must issue a certificate within 90 days which permits abandonment to occur within 120 days of the application's filing. If an investigation is conducted, the Commission must issue a decision within 165 days of the application's filing. Within 15 days of final decision permitting abandonment, the Commission must issue a certificate which permits abandonment to occur within 75 days of the final decision.

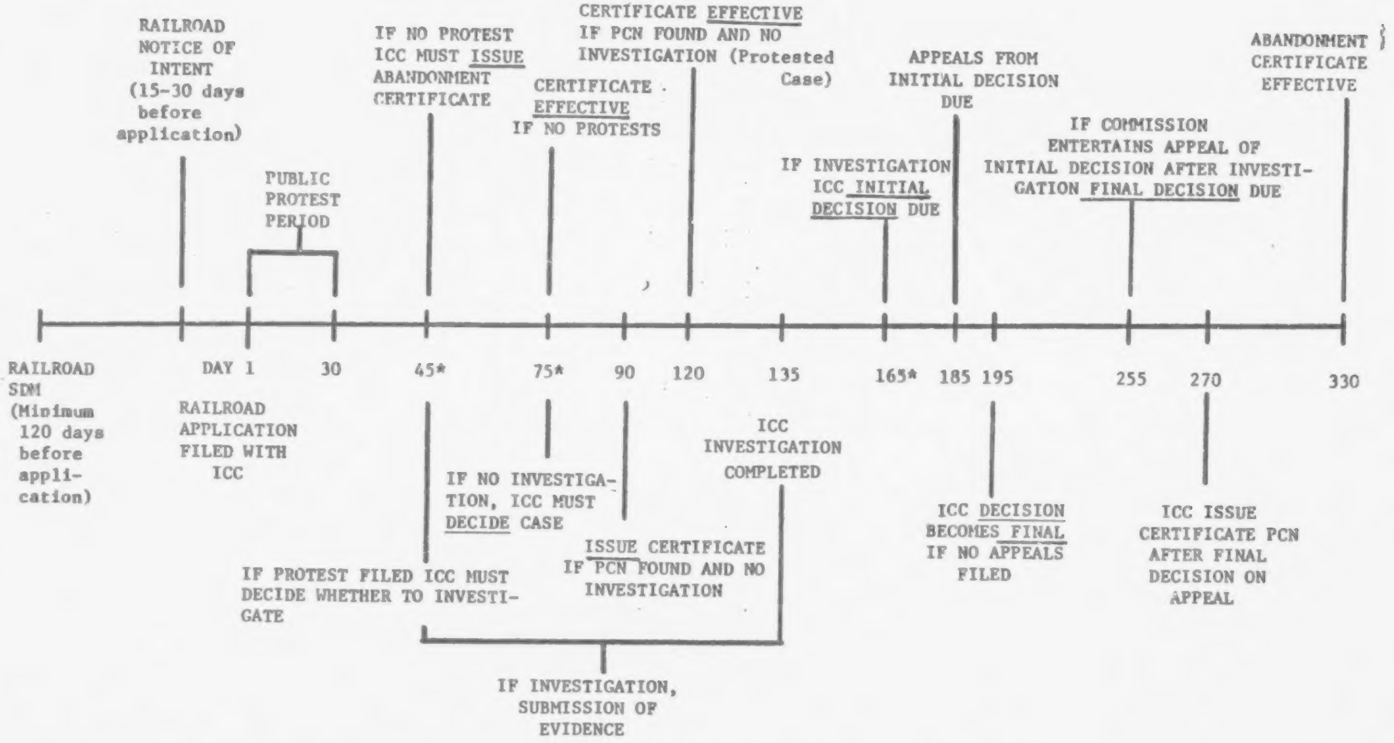
STEP 7: Appeals

Specific procedures exist for seeking administrative review of an abandonment decision. In the case of both unprotested cases and protested but noninvestigated cases, appeals will not be entertained by the Commission. In the latter case, the only review procedure is to file a petition to reopen the proceeding within 15 days of service of the Commission's final decision. The Commission's decision whether to grant the petition is discretionary. In the case of investigated abandonments, appeals must be filed within 20 days after the initial decision. The Commission may hear appeals at its discretion if it finds a matter of general transportation importance is involved or the action would be materially affected because of new evidence, changed circumstances, or material error.

STEP 8: Offers of Financial Assistance/Alternative to Abandonment

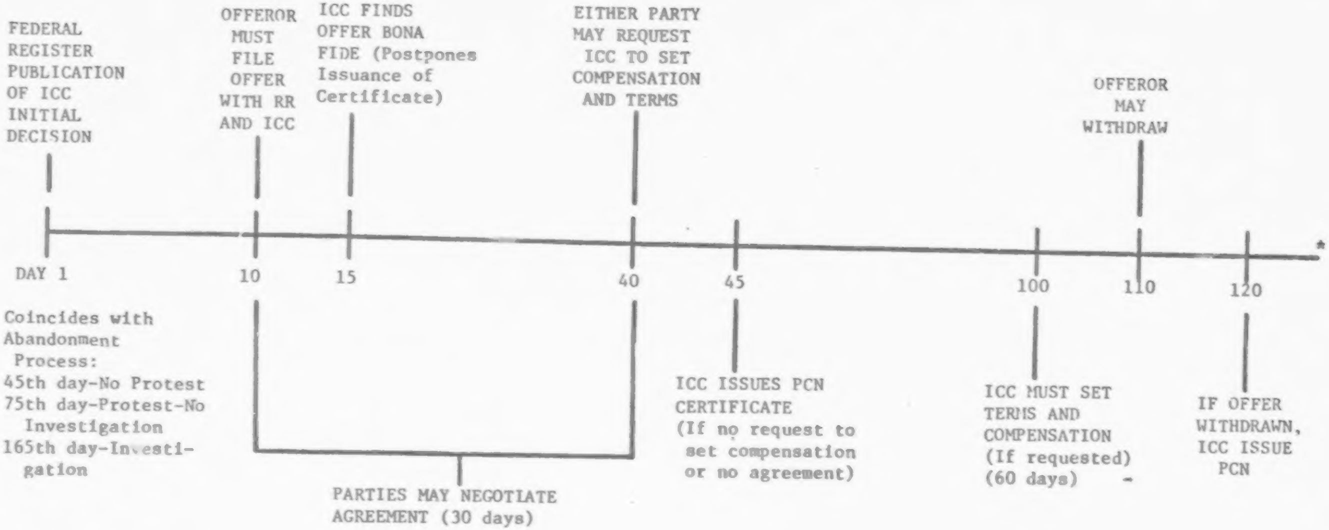
By acquiring or subsidizing the line, shippers and communities can preserve rail service. The Commission has the authority to set the conditions and amount of compensation if the offeror and railroad cannot agree. To invoke Commission jurisdiction, an offer must be filed no later than 10 days after publication of the abandonment finding in the Federal Register. The Commission then has 5 days to rule on the adequacy of both the offer and offeror. If the railroad and offeror are unable to reach an agreement, either party may then request no later than 30 days following the offer, the ICC to set the amount of compensation and any conditions. The ICC will do this within 60 days of the request. The offeror has 10 days to withdraw.

ABANDONMENT PROCESS


RAILROAD NOTICE OF INTENT (15-30 days before application)
PUBLIC PROTEST PERIOD
IF NO PROTEST ICC MUST ISSUE ABANDONMENT CERTIFICATE
CERTIFICATE EFFECTIVE IF NO PROTESTS
CERTIFICATE EFFECTIVE IF PCN FOUND AND NO INVESTIGATION (Protested Case)
IF INVESTIGATION ICC INITIAL DECISION DUE
APPEALS FROM INITIAL DECISION DUE
IF COMMISSION ENTERTAINS APPEAL OF INITIAL DECISION AFTER INVESTIGATION FINAL DECISION DUE
ABANDONMENT CERTIFICATE EFFECTIVE
RAILROAD SDM (Minimum 120 days before application)
DAY 1
30
45*
75*
90
120
135
165*
185
195
255
270
330
RAILROAD APPLICATION FILED WITH ICC
IF NO INVESTIGATION, ICC MUST DECIDE CASE
ICC INVESTIGATION COMPLETED
IF PROTEST FILED ICC MUST DECIDE WHETHER TO INVESTIGATE
ISSUE CERTIFICATE IF PCN FOUND AND NO INVESTIGATION
ICC DECISION BECOMES FINAL IF NO APPEALS FILED
ICC ISSUE CERTIFICATE PCN AFTER FINAL DECISION ON APPEAL
IF INVESTIGATION, SUBMISSION OF EVIDENCE

*See Offer of Financial Assistance Process

OFFERS OF FINANCIAL ASSISTANCE PROCESS


FEDERAL REGISTER PUBLICATION OF ICC INITIAL DECISION
OFFEROR MUST FILE OFFER WITH RR AND ICC
ICC FINDS OFFER BONA FIDE (Postpones Issuance of Certificate)
EITHER PARTY MAY REQUEST ICC TO SET COMPENSATION AND TERMS
OFFEROR MAY WITHDRAW
DAY 1
10
15
40
45
100
110
120
*
Coincides with Abandonment Process:
45th day-No Protest
75th day-Protest-No Investigation
165th day-Investigation
PARTIES MAY NEGOTIATE AGREEMENT (30 days)
ICC ISSUES PCN CERTIFICATE (If no request to set compensation or no agreement)
ICC MUST SET TERMS AND COMPENSATION (If requested) (60 days)
IF OFFER WITHDRAWN, ICC ISSUE PCN

* After consummation of purchase agreement, ICC will dismiss abandonment case, and purchaser may not discontinue service for 2 years nor sell for 5 years; subsidized operations may be terminated by subsidizer with 60 days notice, after which ICC issues certificate of abandonment.

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POST ABANDONMENT

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North Dakota Abandonments

Increase in Abandonment Activity

Railroads are required to file with the Commission annually System Diagram Maps (SDM) which indicate their future abandonment plans. Based on these SDM, the miles of railroad lines "potentially subject to abandonment" in North Dakota increased from 895 miles as of October 1, 1980 to 1551 miles as of July 1, 1981. The major reason for this increase is the current abandonment policy of the Burlington Northern. The BN's new SDM indicates numerous future abandonments throughout its system.

While details are not yet available, reasons for listing a line on the SDM may include excessive operating costs, rehabilitation costs, and declining traffic levels.

Role of Rail Services Planning

The Commission's Section of Rail Services Planning (RSP) has worked extensively with shippers and communities in the area of abandonments and alternatives. RSP has provided information regarding Commission procedures and policies during the Conrail restructuring, the Milwaukee Road embargoes and abandonments, and the Rock Island directed and interim service. RSP assistance to the public (shippers, communities, agencies) is general in nature, but detailed enough to allow interested parties to effectively participate in abandonment cases and consider options such as purchase and subsidy. While RSP does not have the resources to provide counsel or defense for individual cases, we can provide various parties with technical and legal advisory assistance to better understand the issues. RSP's phone number is 202-275-0826.

Highlight of Package Contents

This advisory package contains the following summary information:

- Summary of the Commission's Abandonment Procedures
- Flow Chart of the Abandonment Process
- Public Participation
- North Dakota System Diagram Map
- List of Lines Potentially Subject to Abandonment

SUMMARY OF ABANDONMENT PROCEDURES

Statute: 49 U.S.C. 10903 - 10905   ICC Regulations: 49 C.F.R. 1121

STEP 1: Placing the line in Category 1 on the railroad's System Diagram Map

The purpose of the Category 1 filing is to give the public advanced notice of those lines which will be the subject of abandonment applications within 3 years. The system diagram map is a useful tool to determine which lines of a particular carrier are threatened with abandonment. A line must appear in Category 1 for at least 4 months before an abandonment application can be filed. In addition to Category 1, the system diagram map includes a Category 2 which lists those lines that are under consideration for possible abandonment in the future. Category 3 is used for lines where abandonment applications are currently pending before the Commission. Carriers file SDM with the Commission, Governor, Designated State Agency, and Public Service Commission. Request for copies of the map may be made with the carrier.

STEP 2: Service of the Notice of Intent to Abandon

The purpose of the Notice is to apprise the public that the abandonment application is about to be filed. Certain state agencies and significant users on the line must receive the notice at least 15 but no more than 30 days prior to the application's filing with the Commission. The Notice is also posted in stations and published in a local newspaper. Basically, the Notice identifies the line, the specific date for the application's filing, the reasons for the proposed abandonment and procedures for public protest and comment.

STEP 3: Filing of the Abandonment Application

The application contains the railroad's case for abandonment. It includes information regarding the applicant and its financial status, the condition of the line, the service provided on the line, specific revenue and cost data, and rural and community impact. The application must be served on the Governor, Public Service Commission and designated State Agency. Also, the applicant must furnish a copy to any interested parties proposing to file protests or written comments.

STEP 4: Public Participation/Protests and Written Comments

The public has an opportunity to protest an abandonment within 30 days of the date the application is filed. If the abandonment is not opposed within this 30-day period, the ICC must grant the abandonment. The filing of a protest does not guarantee that the Commission will conduct an investigation. The Commission's decision to investigate, which is wholly discretionary, is based on an analysis of the protest and written comments. As a result, it is critical that the protests be substantive and well developed. Protests must include information concerning the identity of the protestant; the specific reasons for opposing the abandonment; any rebuttal of information or material submitted by the applicant, requests for oral hearings; and input concerning any intent to make offers of financial assistance, community and rural impact, etc.

STEP 5: Commission Investigation

The Commission will decide within 45 days of the filing of the application (15 days after protests are due) whether to hold an investigation. Investigations are conducted by modified procedure (the exchange of verified statements) or oral hearings. It is at this stage that the public has the opportunity to make its case for retention of service and to rebut the railroad's data. Major factors considered by the Commission are: Present and future traffic;economic burden on carrier; deliberate downgrading; alternative transportation; opportunity cost; community impact; and energy environment. Based on an analysis of the record, the Commission will decide whether to grant the abandonment. Investigations will be completed within 135 days of the application's filing (i.e., a 90-day investigation period).

STEP 6: Commission Decision and Certification

The Commission has strict statutory time frames to follow in deciding abandonment cases. If the abandonment is unprotested, the

Commission must issue, within 45 days of the application's filing, a certificate which permits abandonment to occur within 75 days of the application's filing. In the case of protested cases, which the Commission has decided not to investigate, a decision whether to abandon must be made within 75 days of the application's filing. If the decision permits abandonment, the ICC must issue a certificate within 90 days which permits abandonment to occur within 120 days of the application's filing. If an investigation is conducted, the Commission must issue a decision within 165 days of the application's filing. Within 15 days of final decision permitting abandonment, the Commission must issue a certificate which permits abandonment to occur within 75 days of the final decision.

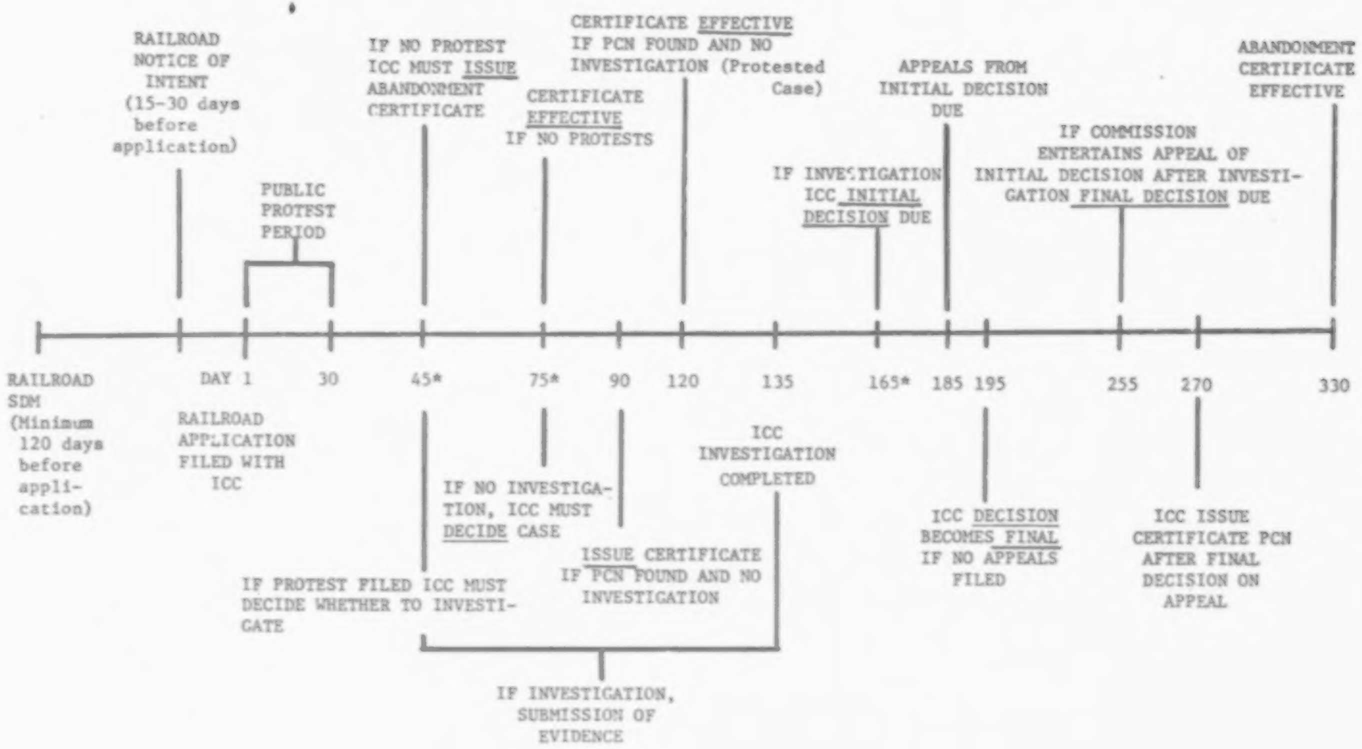
STEP 7: Appeals

Specific procedures exist for seeking administrative review of an abandonment decision. In the case of both unprotested cases and protested but noninvestigated cases, appeals will not be entertained by the Commission. In the latter case, the only review procedure is to file a petition to reopen the proceeding within 15 days of service of the Commission's final decision. The Commission's decision whether to grant the petition is discretionary. In the case of investigated abandonments, appeals must be filed within 20 days after the initial decision. The Commission may hear appeals at its discretion if it finds a matter of general transportation importance is involved or the action would be materially affected because of new evidence, changed circumstances, or material error.

STEP 8: Offers of Financial Assistance/Alternative to Abandonment

By acquiring or subsidizing the line, shippers and communities can preserve rail service. The Commission has the authority to set the conditions and amount of compensation if the offeror and railroad cannot agree. To invoke Commission jurisdiction, an offer must be filed no later than 10 days after publication of the abandonment finding in the Federal Register. The Commission then has 5 days to rule on the adequacy of both the offer and offeror. If the railroad and offeror are unable to reach an agreement, either party may then request no later than 30 days following the offer, the ICC to set the amount of compensation and any conditions. The ICC will do this within 60 days of the request. The offeror has 10 days to withdraw.

ABANDONMENT PROCESS


RAILROAD NOTICE OF INTENT (15-30 days before application)
PUBLIC PROTEST PERIOD
IF NO PROTEST ICC MUST ISSUE ABANDONMENT CERTIFICATE
CERTIFICATE EFFECTIVE IF NO PROTESTS
CERTIFICATE EFFECTIVE IF PCN FOUND AND NO INVESTIGATION (Protested Case)
IF INVESTIGATION ICC INITIAL DECISION DUE
APPEALS FROM INITIAL DECISION DUE
IF COMMISSION ENTERTAINS APPEAL OF INITIAL DECISION AFTER INVESTIGATION FINAL DECISION DUE
ABANDONMENT CERTIFICATE EFFECTIVE
RAILROAD SDM (Minimum 120 days before application)
DAY 1
30
45*
75*
90
120
135
165*
185
195
255
270
330
RAILROAD APPLICATION FILED WITH ICC
IF NO INVESTIGATION, ICC MUST DECIDE CASE
ICC INVESTIGATION COMPLETED
ISSUE CERTIFICATE IF PCN FOUND AND NO INVESTIGATION
IF PROTEST FILED ICC MUST DECIDE WHETHER TO INVESTIGATE
IF INVESTIGATION, SUBMISSION OF EVIDENCE
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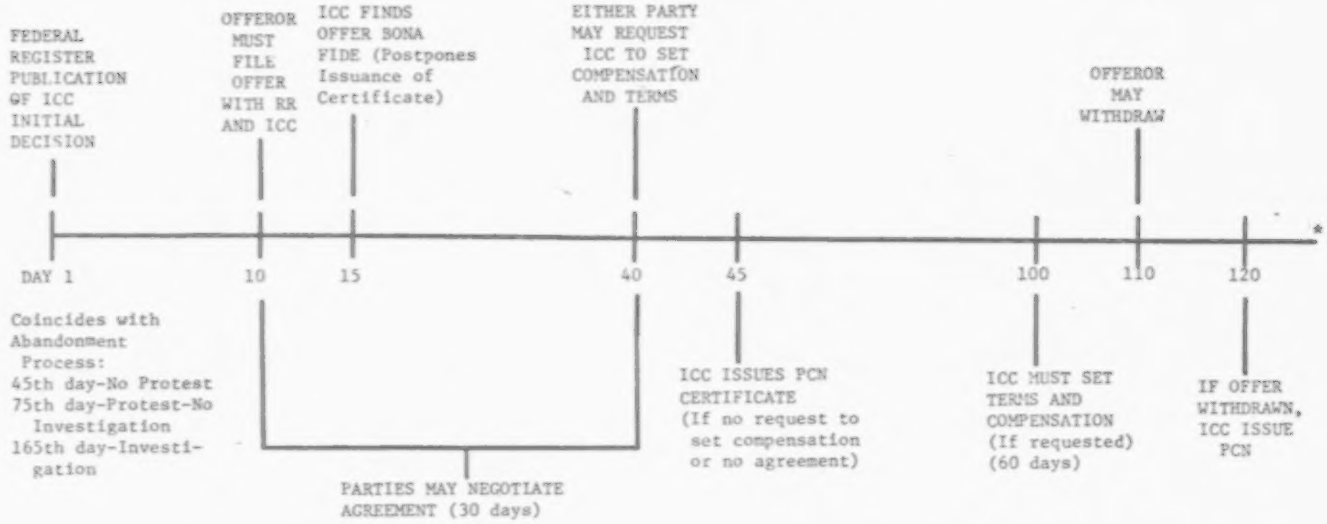
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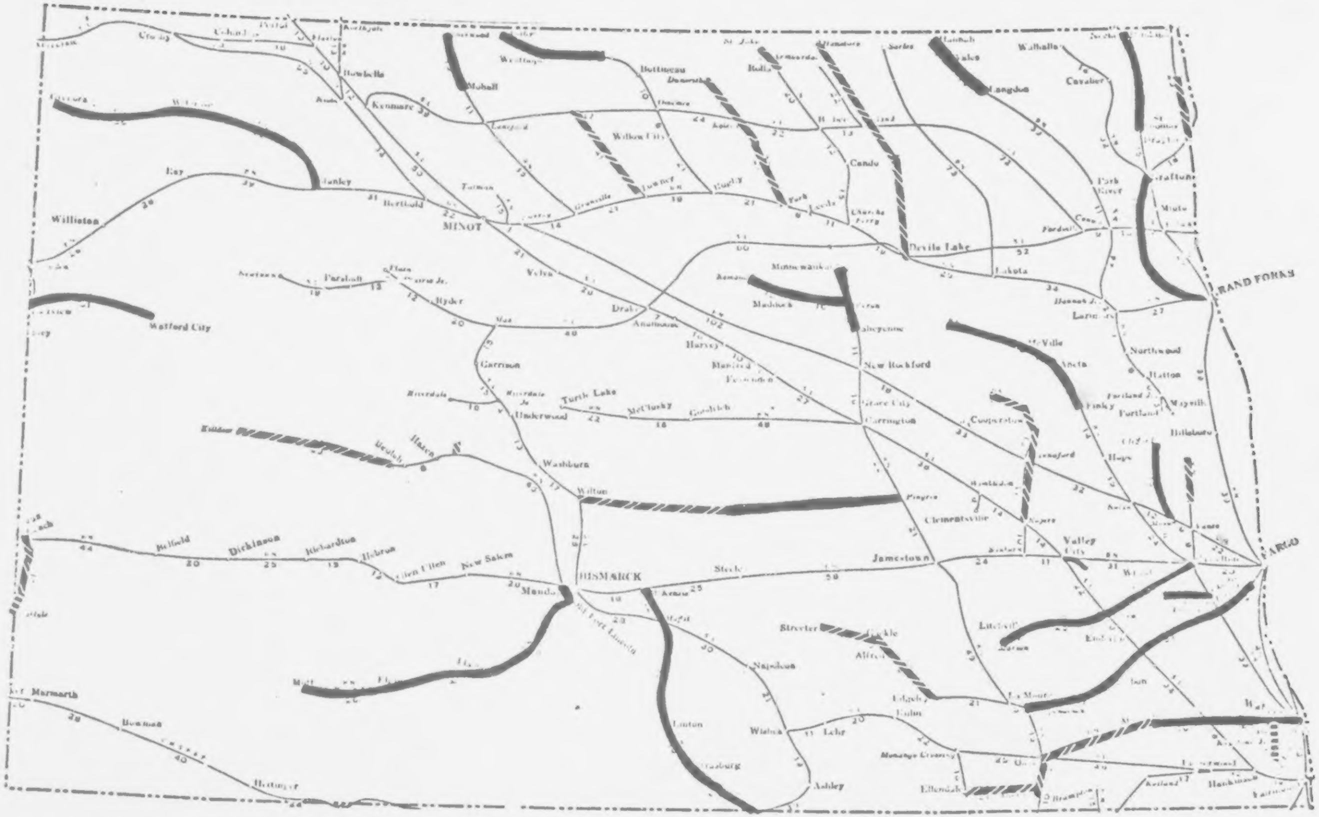
Williston
Crosby
Stanley
Watford City
MINOT
Berthold
Kenmare
Mohall
Bottineau
Rolla
Cando
Devils Lake
Langdon
Cavalier
Walhalla
Grafton
Park River
GRAND FORKS
Lakota
Larimore
Northwood
Hatton
Mayville
Hillsboro
Finley
Cooperstown
New Rockford
Carrington
Harvey
Drake
Velva
Ryder
Max
Garrison
Turtle Lake
McClusky
Underwood
Washburn
Wilton
Hazen
Beulah
Killdeer
BISMARCK
Mandan
Fort Lincoln
Belfield
Dickinson
Richardton
Hebron
Glen Ullin
New Salem
Steele
Jamestown
Valley City
Pingree
Streeter
Napoleon
Wishek
Lehr
Linton
Strasburg
Ashley
Edgeley
La Moure
Ellendale
Oakes
Lisbon
Wahpeton
Hankinson
Enderlin
Litchville
FARGO
Marmarth
Bowman
Hettinger

North Dakota Rail Network
Abandonment Lines

Category 1 ▨
Category 2 ━
Category 3 ┅

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                    SYSTEM DIAGRAM MAPS AS OF JULY 1, 1981

                                              STATE: ND
 RR CAT MILAGE  DESCRIPTION
--- --- ------  ----------------------------------

BN   1   32.20  OAKES TO MILNOR (117)
BN   1   41.79  YORK TO DUNSEITH,ND (22)
BN   1   24.90  HANNAFORD TO BINFORD (87)
BN   1   39.83  EDGELY JCT. TO STREETER (98)
BN   1   27.82  OAKES TO ELLENDALE (97)
BN   1   15.50  DRAYTON TO JOLIETTE, SEG. 123
BN   1   10.42  HUNTER TO BLANCHARD, SEG. 131
BN   1    7.24  ROLLA TO ST. JOHN, SEG. 132
BN   1   66.59  DEVILS LAKE TO HANSBORO, SEG. 133
BN   1   26.03  SANBORN TO HANNAFORD, SEG. 134
BN   1   35.26  TURNER TO NEWBURG, SEG. 89
BN   1   37.77  TUTTLE TO WILTON, SEG. 106
BN   1    6.37  TRUAX JCT. TO TRUAX, SEG. 190
BN   1   40.86  ZAP TO KILLDEER, SEG. 191
BN   1   12.86  BEACH TO GOLVA, SEG. 192

                                     TOTAL MILES FOR CATEGORY   =  425.44

BN   2   25.60  LISBON TO INDEPENDENCE (99)
BN   2   44.22  MCKENZIE TO LINTON (100)
BN   2   60.18  CASSELTON TO MARION (101)
BN   2   28.07  OBERON TO ESMOND (102)
BN   2   18.66  SHEYENNE TO MINNEWAUKAN (103)
BN   2   44.65  GRAND FORKS TO GRAFTON (104)
BN   2   55.00  PINGREE TO TUTTLE (138)
BN   2   25.08  ST. THOMAS TO NECHE (105)
BN   2   21.00  LANGDON TO HANNAH, SEG. 127
BN   2   50.02  FINLEY TO WARWICK, SEG. 142
BN   2   40.49  WAHPETON TO MILNOR, SEG. 119
BN   2   17.75  ERIE JCT. TO CLIFFORD, SEG. 135
BN   2   11.79  ADDISON TO CHAFFEE, SEG. 136
BN   2    4.82  VALLEY CITY LOW LINE TO BEREA, SEG. 139
BN   2   46.29  HORACE TO LISBON, SEG. 141
BN   2   14.58  MOHALL TO SHERWOOD, SEG. 140
BN   2   17.58  LANDA TO ANTLER, SEG. 143
BN   2   37.55  LINTON, ND TO EUREKA, SD (TOT. 49.97 MI.), ND BORDER MP 38
                LINE SEGMENT NO. 137
BN   2   39.10  MANDAN TO MOTT, SEG. 195
BN   2   37.09  STANLEY TO GRENORA, SEG. 144
BN   2   35.06  FAIRVIEW, MT TO WATFORD CITY, ND (TOT. 37.06 MI) SEG. 193
                THE FS MILEAGE IS ESTIMATED
SOO  2   35.93  POLLOCK, SDAK TO WISHEK,NDAK

                                     TOTAL MILES FOR CATEGORY   =  893.12

BN   3    6.37  FS MILES ARE EST. GOLVA, ND TO CARLYLE, MT (TOT:7.37 MI) S. 74
MIL  3    5.40  MARMARTH TO MILES CITY (231)
MIL  3  124.10  MCLAUGHLIN TO NEW ENGLAND (TOT:134.4 MI-SD=10.3 MI)(103)A87,9
MIL  3   97.00  MOBRIDGE, SD TO MARMARTH, ND (299)

                                     TOTAL MILES FOR CATEGORY   =  232.87

                                     TOTAL MILES = 1551.43
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RAIL MERGERS

Senator ANDREWS. Over the past year or so the number of announcements of proposed mergers between corporations in this country has increased significantly. This is true of the railroad industry in particular.

In your opinion, Mr. Chairman, is this a policy that will benefit the individual railroads, shippers, and consumers? If so, how?

Mr. TAYLOR. We hope that it will.

Senator ANDREWS. Hoping is really something around this place. We are hoping to get the budget under control. We are hoping things will turn out in El Salvador, and now the ICC is hoping that rail mergers will work out.

Mr. TAYLOR. I think we have some justification, Mr. Chairman, for our hope. In these merger and consolidation cases, of course, the matter of concern is the balancing between efficiencies on the one hand and any possible anticompetitive effect on the other. I can't really talk about the one that is being announced tomorrow, but I might give you those that are before us.

The Norfolk-Southern matter should be out. We are having a press conference on that in the morning. Then we have the Guilford acquisition in New England.

Senator ANDREWS. Why don't you provide for the record your thoughts on whether this is a policy that is going to benefit the individual railroads, the shippers, or if it is going to benefit the consumers? That will give you a chance to sit down and think about it and then write some great prose for the record. We can look at it when it comes back.

Mr. TAYLOR. I would appreciate that opportunity.

[The information follows:]

ICC DUTIES PERTAINING TO RAIL MERGERS

The Commission is charged with determining whether particular rail merger proposals are consistent with the public interest under 49 U.S.C. 11343. In discharging the duty in individual cases the Commission considers a number of factors including benefits to shippers and receivers of freight, benefits to individual railroads and general benefits accruing to the public through lower costs which may favor the consolidation. However, mergers may also create certain anticompetitive effects, or harm essential rail services provided by non-applicant railroads. These effects would weigh against a proposed consolidation. The Commission will balance the specific benefits against potential harm on a case by case basis as set forth in Railroad Consolidation Procedures, 363 I.C.C. 784 (1981).

The recent trend to mergers in the railroad industry is in general a response to the need to restructure and rationalize the rail system. Congress recognized the need to encourage such restructuring when it passed the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). The 4R Act was intended to "encourage mergers, consolidations, and joint use of facilities" (Senate Report No. 94-499, p. 20), and one major objective of the Act was to promote the revitalization of the nation's railroad system through the "encouragement of efforts to restructure the system on a more economically justified basis" (section 101(a)(2)). To achieve this objective the 4R Act provided an expedited procedure for determining whether merger and consolidation applications are in the public interest, now codified at 49 U.S.C. 11345.

The recent rail consolidations approved by the Commission are, for the most part, end-to-end mergers as opposed to parallel mergers. The Commission's Rail Services Planning Office, in its

Rail Merger Study, Final Report, February 1, 1978, recognized that end-to-end mergers generally provide potential for greater long-term advantages with fewer risks than most parallel mergers which by definition, reduce intra-modal competition. End-to-end mergers provide the opportunity for the individual carriers to reach new markets and to provide single-line (or single-system) service between a greater number of points. This ability is especially important in light of the emphasis on rate flexibility and the restrictions on collective ratemaking contained in the Staggers Rail Act of 1980.

Examples of the type of benefits which an end-to-end consolidation can produce are found in the recently approved Norfolk Southern Corp. - Control - Norfolk and Western Railway Company and Southern Railway Company, (served March 25, 1982). In this proceeding, the Commission identified approximately $88 million in annual benefits to the applicant carriers arising from implementation of new more efficient routes and consequent new marketing opportunities, improved equipment utilization, common point consolidations at 10 of the 17 points where NW and Southern meet, internalizing of various manufacturing operations (NW building cars for Southern, Southern welding rail for NW), and coordination of such functions as maintenance-of-way, shop facilities, sales and purchasing. Of the $88 million annual private benefits to the applicant railroads, $76 million a year was found also to accrue to the public benefit. The Commission found no harm to essential services or competition. Public benefits such as improved service over new, more efficient routes and lower cost operations benefit shippers and receivers of freight directly, and indirectly benefit the consumers of the goods transported at lower cost. These benefits may appear in the form of improved service, lower rates, or foregone rate increases.

As discussed in the Norfolk Southern decision, specific commodities are expected to realize particular benefits from this consolidation. Two examples are coal and grain. Transportation of coal from NW origins to Southeastern utilities and ports will be substantially improved as will transportation of grain from NW origins in the Midwest to consumers, such as the poultry industry in the Southeast. The Commission performs this type of cost-benefit analysis in all rail consolidations.

While we have discussed some of the benefits which a particular merger can produce, it should be emphasized that the Commission evaluates each proposal on its own merit to determine whether the specific proposal, in its entirety, is consistent with the public interest. In making this determination, the Commission is required to consider the policies embodied in the antitrust laws. Additionally, we have broad authority under the statute to impose appropriate conditions where warranted in the public interest.

In our view, recent mergers have been helpful in positioning the railroads to be stronger competitors for interregional transportation against each other and in competing with other modes. The systems resulting from Commission approval of consolidations appear stronger and more competitive than their component parts had been. Nevertheless, we will continue to watch the situation carefully to insure that competition is enhanced and that a proposed consolidation will in fact assist in effectuating the transportation policy set forth in 49 U.S.C. 10101(a).

NUMBER OF COMMISSIONERS

Senator ANDREWS. The Interstate Commerce Act allows a full complement of 11 members on the Commission, although since 1977 there has never been any more than seven Commissioners serving at any one time. I suppose the job is so onerous, you can't find anybody that wants it.

Do you see the Reagan administration trying to seat an increased number of Commissioners or is the job so easy to do, you don't need the full Commission?

Mr. TAYLOR. Mr. Chairman, it is my understanding that—and I don't know whether this is a compact or handshake or what—there is an understanding between the administration, the White House, and the Senate Commerce Committee that the Commission should consist of seven members.

My own personal view is that that is plenty. We do not need any more that.

Senator ANDREWS. So by executive fiat you have lowered the number of the Commissioners irrespective of the law?

Mr. TAYLOR. I haven't had anything to do with it. I have nothing to do with choosing Commissioners or how many we have or how they are appointed. I really tried to stay out of it, frankly, because somebody advised me—and I think it was good advice—early on not to get involved in the Commission selection.

Senator ANDREWS. But since you are a preacher of this administration, you have to be considered sort of as the in-house dog as far as this stuff is concerned.

Mr. TAYLOR. I am the only Reagan appointee. Nobody has asked my opinion as to how many Commissioners we should have. It is my understanding it is going to be seven, and I have no reason to oppose that view. I think that is the right number.

We operate with two divisions. That would allow three Commissioners on each division. The divisions act across the board. They are not assigned to any specific jurisdictional matter. The chairman would be involved in full Commission cases.

I think that is a fair assignment of the workload. It seems to me that is what is coming down.

IMPACT OF STAGGERS RAIL ACT

Senator ANDREWS. With 1 year of experience under the Staggers Rail Act, how do you assess the impact on the rail industry, both carriers and shippers, and are you satisfied with the Commission's actions in this area?

Mr. TAYLOR. We still have a lot of things to do in the Staggers area, particularly to decide where we are with regard to maximum coal rates. But I think the act has been very beneficial to the railroads, and I think it has been to shippers as well.

The important concerns, of course, in terms of the additional rate flexibility, are shippers of coal and grain. Those are the two we hear the most from, but so far as we can tell, at this point in time the Staggers Act has been beneficial.

RECIPROCITY

Senator ANDREWS. Senator Kasten?

Senator KASTEN. Thank you, Mr. Chairman.

Mr. Taylor, you are aware of a bill, legislation which I have introduced, dealing with reciprocity. I would like to address a number of questions having to do with this that are still on my mind.

As you know, my bill would require that the Interstate Commerce Commission consider reciprocity before issuing new licenses to foreign motor carriers seeking new routes in the United States.

In my mind the issue is very simple. Our neighbor to the south, Mexico, prohibits U.S. carriers from conducting business within its borders except on a very limited and arbitrary basis.

The Canadian provinces, as well, control access and operate under restrictive guidelines, similar to those in effect in the U.S. prior to 1980.

When the United States adopted more open entry policies 18 months ago in the Motor Carrier Act of 1980, I believe that an unintended competitive disadvantage was created, for U.S. motor carriers. Foreign firms can now gain new routes and new business by penetrating previously protected U.S. markets.

But our American trucking companies cannot gain the same kind of access to either Canadian or to Mexican markets because of difficult or discriminatory laws in those countries.

It is my understanding in the past 18 months literally hundreds of foreign applications to transport freight across borders and into the States have been received by the ICC and most have been approved.

Our information says that almost 94 percent of the 439 applications by Canadian firms which have been decided by the ICC during the past 18 months have been approved in part or in full; is 94 percent correct?

Mr. TAYLOR. I can't confirm that specific percentage, Senator, but that is probably right because that is about what our percentage is overall, somewhere between 91 and 94 percent.

Senator KASTEN. But you don't deny the numbers are probably very close?

Mr. TAYLOR. Yes.

Senator KASTEN. Before 1980 Canadian firms, I understand, submitted an average of only 30 applications a year. Is that correct?

Mr. TAYLOR. My legislative counsel confirms that for me. I was not aboard at that time.

Senator KASTEN. The Mexican situation is not nearly as serious, but the potential is there, I believe, should the Mexican firms start making applications as the Canadian firms have already done.

Mr. TAYLOR. We have five of those that we have consolidated and are holding until we dispose of this Canadian investigation.

Senator KASTEN. I hope we can encourage you to hold a whole lot more. Let me go through these questions.

No wonder American truckers, in my opinion, particularly from the States bordering Mexico and the States bordering Canada, like Wisconsin, are concerned. I think they have a very strong justification for this concern.

Now, in November—it was actually on November 22—Bill Brock, special trade representative, wrote to you as chairman and he discussed this problem. I just want to take one quote. He said:

> I understand that the Motor Carrier Act of 1980 does not expressly require reciprocity as a condition to licensing foreign motor carriers. However, I believe it is appropriate for the Commission to consider the effect the proposed surge will have on existing U.S. motor carriers.
>
> If the pending applications are approved, Canadian motor carriers would be able to offer single-line service to destinations in Canada, while U.S. operators could not offer competitive service since they are unable to obtain reciprocal authority to operate in Canada. The result will likely be a loss of traffic and revenue by U.S. motor carriers.

It seems to me, and based on what we have seen with these applications and approvals, that you paid absolutely no heed to those comments and simply went forward granting licenses without regard to nationality.

Mr. TAYLOR. May I respond to that, Senator?

Senator KASTEN. Absolutely.

Mr. TAYLOR. That is not correct. We have paid very close attention to it. The Canadian problem has been one of the top priority items since I have been on board.

I have had my chief of staff in Ottawa meet with the Canadians about it. We had a meeting arranged here for the latter part of April to discuss this and a number of other issues with them. We have taken some action as a result of it. We began discussions with the State Department people on the question of what is going on in Canada.

I think the problem is that we cannot export our law to Canada. They have stricter entry laws than we do. There is no way the United States can sit here and tell the Canadians—who don't do it on a national basis, but on a provincial basis; it is stricter in eastern Canada than it is in western Canada—that you ought to have the same kind of law we have.

As a matter of fact, a year ago my predecessors invited the Canadians down and spent a day with them telling them why they ought to deregulate their motor carrier industry. They went home quite disgusted and upset and not eager to come back.

We have had to cajole them to come down and have some meaningful discussions with us. We have given it a great deal of attention and a great deal of concern. Most recently we have opened the matter for investigation, because the real issue is not whether they have the same law as we have, but do they discriminate against Americans under that law.

If they treat Canadians exactly as they treat Americans under their law, there seems to me to be no basis for treating Canadians any differently than Americans under our law. But if they discriminate against Americans under their law, be it a stricter law than ours, then I think we have some serious problems.

It is our understanding that it is not so much the provincial licensing authority that is the problem, but an operation called FIRA, under which if you have to do business and establish an operation in Canada, you have to—and that is a national board—go through certain requirements.

The purpose of Ex Parte 157 is to determine the extent to which FIRA or the licensing authorities have, in fact, discriminated against American carriers.

LEGISLATIVE PROPOSAL

Senator KASTEN. I am not in the process of trying to change Canadian law, but what I think we can do here is possibly change the U.S. law. I feel that with the situation that we have right this minute, legislation is likely to be passed which would essentially prevent foreign carriers from obtaining authority from the ICC under the relaxed rules of the Motor Carrier Act of 1980 unless the foreign country would allow American carriers to compete at the same level.

We cannot tell them what to do, but we do have the power to make law here. I want to concentrate on the issue of reciprocity—and you touched on this in your last statement—in the trucking business.

Would you define for me what you believe is the distinction between discrimination and reciprocity?

Mr. TAYLOR. I think the Canadians have a right to have whatever law they see fit, insofar as Canada is concerned. If they elect to do it in a provincial or, as we might call it, a state level as opposed to a national level, it seems to me that is also their business.

You are absolutely right, the United States has the right, nationally or by State, to have whatever laws we see fit. I don't think they can tell us what kind of laws we ought to have. I don't think we can tell them what kind of laws they ought to have.

Senator KASTEN. We are talking about changing the law here. Would you define for me the difference between discrimination and reciprocity?

Mr. TAYLOR. Discrimination is where under their law, Americans, because they are Americans, are treated differently than Canadians. And reverse discrimination would be to treat Canadians differently than you treat Americans simply because they happen to come from an area in the world where there is stricter regulation than we have in this country.

I think that is improper. I don't think two wrongs make a right. If they are discriminating against us, I don't suggest we should do it here.

My problem, frankly, is with the legislative approach which your bill takes and which the ATA has taken because I don't think we should have two standards for entry in the motor carrier business.

I don't think we should go through a set of procedures, almost more regulatory and more restrictive than pre-1980, because the applicant happens to be a Canadian and not do that for Americans. I don't see how we can do that under a two-standard operation.

INVESTIGATION OF CANADIAN DISCRIMINATION

Senator KASTEN. Are you suggesting to me that the Canadians have just one standard?

Mr. TAYLOR. As I understand it—and that is what our investigation is all about—people have alleged that there have been discriminatory actions taken in Canada. So far all that it has been to us is a matter of conversation. The purpose of Ex Parte 157 is to find out what is going on.

Now, several carriers have come by and said they have had some real problems dealing with FIRA in Canada. I indicated, please, then tell it to the people that are looking into it.

We are holding hearings on that in Buffalo and Detroit to make it readily accessible to the carriers who are on the Canadian border and who perhaps have had experience with the difficulties in question.

But I don't think you can sit here and try to get a more restrictive motor carrier act in the United States, at least insofar as Canadians are concerned, on this reciprocity argument because I think what you are talking about, if you are rectifying an evil, is discrimination.

If they are discriminating, our general counsel advises me that we have enough jurisdiction in our present statute to be responsive to it. At least I hope so.

Senator KASTEN. If that is the case and you do have enough jurisdiction, then you are being irresponsible in not enforcing that part of the law that you have because—if these statistics are right, and you said that they were—we are seeing a flood of applications coming in and you are approving 94 percent of them. So let me talk for a minute about the investigation.

Mr. TAYLOR. There are none going out now, Senator.

Senator KASTEN. That is in part because a few of us spoke up.

Mr. TAYLOR. It is not wholly because of that. I had trouble getting a majority out of the Commission on holding any of them up.

Senator KASTEN. I commend you for your hard work in this area, and we are going to be working together as we go forward.

Mr. TAYLOR. I certainly hope so.

INVESTIGATION COMMENT PERIOD

Senator KASTEN. The investigation which you now have underway, which you referred to, on this issue called for statements to be submitted to the ICC by March 23. As I understand it, there is to be a prehearing conference, and you referred to that, on March 31 by the administrative law judge who is to preside at these hearings.

A number of people in Wisconsin have called to my attention the problem that the issues in this investigation really have not been fully defined yet. What is the likelihood that the comment period could be extended or will be extended so the industry can more clearly comment once the issues have been defined?

Mr. TAYLOR. What we are looking for is evidence of discrimination. We did ask people to comment as well on the legal issues under the present statute. It isn't clear, because there is nothing that specifically we can hang our hat on. That is why we may have to come to Congress ultimately and ask for some legislation in this area, but at least our general counsel thinks it is there.

Nonetheless, we have asked people to comment. When we did this, we did it knowing full well that we were on a short fuse and we wanted to get it acted upon as quickly as possible. One of the first requests for an extension came from our own staff. They wanted to send some people up to Canada and wanted a 90-day extension.

We have had several others ask for additional time. I suppose if we are going to follow the usual ICC pattern of allowing things to go along forever and a day, we would do that. We would grant the extensions, then we would come out with a partial decision on it, then find some other little facet of it that ought to be explored, and maybe a year from now we could come out with a decision.

I wanted to really move this thing along because the basic question is: Is there evidence of discrimination against American carriers on the Canadian side of the border or not?

It seems to me we can find that out in a fairly quick period of time. Everybody knows what the schedule is and all they have to do is come forward and tell us what experiences they have had, be it with the provincial licensing body or with the FIRA.

Because I don't think there is really a need for it, I am not inclined to grant any extensions of time. On the other hand, it is very important for us to have all of the facts to afford everybody due process. So if a very short one can be granted that might accommodate somebody, I certainly do not want you to think we have our feet in cement. But I would like it to move.

Senator KASTEN. I think that we both share an interest in bringing this issue to a head and of collecting this information and I hope acting in a responsible manner to get some balance here. But it is important for the investigation, I think, to provide a fair procedure to build an accurate and a complete record on Canadian reciprocity.

Mr. TAYLOR. There is one point, Senator, if I might just comment about a time extension. We have, in effect, put all Canadian certificates on ice. None of them are being issued now. That took some doing, I can promise you.

We can only do that until the statutory deadline expires, which will be in June. We have timed this proceeding to be over with by the latter part of May. It will be somewhat disconcerting to us if we extend the timeframe and we don't have a decision out prior to the middle of June.

If we then have to begin issuing certificates, even if they have a time provision in them—that is an added reason for moving as quickly as possible.

SCOPE OF INVESTIGATION

Senator KASTEN. I also believe, and maybe you agree with me, that we have to build a record. We want a complete record on Canadian reciprocity or lack of reciprocity. I think, also, that this has to go beyond the concept of discrimination and cut through to the problem of the application of the Federal Investment Review Act and its impact on American firms.

This isn't one little isolated area. Is it your intention to include in your decisionmaking process the problems with the application of that Federal Investment Review Act?

Mr. TAYLOR. The purpose of this proceeding that we have initiated is very narrow. It is simply to develop evidence of discrimination in this particular area.

Yes; there are a number of other problems. I just responded to the Canadian who we have been dealing with in regard to this conference down here scheduled for the latter part of April. We both agreed that under the present circumstances it would be better held at a later date in the fall. But he has agreed that there are a number of things that we should discuss with them. They go far beyond the question of whether FIRA has been discriminating against American carriers.

So the answer to your question is, yes, we do want to get into other specific areas.

LEGAL AUTHORITY FOR DELAYING CANADIAN APPLICATIONS

Senator KASTEN. You said that you can only hold up these certifications, if I understood you, until a statutory deadline.

What do you believe is the legal authority you have to hold up certifications of Canadian firms?

Mr. TAYLOR. We have 120 days within which to act. We simply have reopened them, which automatically stays them, for the purpose of determining what develops as a result of this investigation. I know the Canadians—I think they have already taken this position, have they not, counsel?

Ms. ROSENAK. Yes.

Mr. TAYLOR. So ultimately there may be a judicial determination in that respect, but it is our feeling that we are on good, safe ground. Our general counsel seems to feel we are. We hope that is the case because I don't believe any more Canadian certificates should go out until this matter is determined, and that is what we are endeavoring to do.

Senator KASTEN. You feel that you do have the legal authority to delay effectively and indefinitely then?

Mr. TAYLOR. We think we can go at least until June. Come June we are going to have to do something else. Maybe we will have to put them out with a 1-year time period in them. We can issue term certificates until this investigation is completed.

There were a couple that were administratively final, as a matter of fact, I think a total of seven, when we put this freeze on. You might say they snuck out the door with that kind of provision in them.

IMPACT OF CANADIAN ENTRY ON U.S. MARKET

Senator KASTEN. Now, have you studied the issue to find out what impact, if any, the Canadian entry into the U.S. market since 1980 has had? In other words, have you taken a look at what the effect on the domestic business is, what the effect on our business here is?

In other words, what is the effect, for example, that it has had on American or domestic trucking firms? Has there been a loss of business? Specifically, what is that loss of business? Shouldn't this whole area be of importance to the Commission in determining this?

Mr. TAYLOR. We are interested in not only the impact of additional entry for Canadians, but additional entry for all truckers. The problem is, as I was responding to the chairman, at least in the case of small communities, this is all being studied.

We really don't have any definitive answers as yet. We have not, to my knowledge, specifically isolated Canadian carriers as such and tried to determine what impact freer entry for them has had in the areas that are along the border or anywhere else in the United States, for that matter, upon American carriers.

But that is a very difficult assessment to make, even if you don't confine yourself to Canadian carriers, because we are experiencing an economic downturn and nobody really knows.

Carriers have come in to see me and talk about how they are suffering and they are hemorrhaging and financial times are—everything is black and bleak. I always ask them, to what extent do you attribute that to the economic circumstances that we are suffering from today as opposed to the freer entry and greater amount of competition authorized by the Motor Carrier Act?

Most of them cannot segregate the cause. I get 75- and 25-percent answers, but they are very broad brush, 75-percent economy and 25-percent competition. But I cannot give you an answer to that. I don't think we are specifically examining the question of what impact Canada and new Canadian carriers have had on American carriers.

There is a problem that is more ascertainable in Mexico. As you indicated, there is just no entry at all in Mexico.

On the other hand, I am not aware of many American carriers who really want to go down and do business in Mexico. Maybe they want to serve some of the border areas. I am sure there are many of those.

The big problem we are having with the Mexican situation is that there is just an unlimited number of unlawful operations that are going on, particularly in San Diego and Los Angeles. Unauthorized, unlawful Mexican carriers are crossing the border and zipping around all over California, all over the West for that matter, the same thing in Texas.

We are endeavoring now to develop some enforcement response to that. The Commission has not had much of an enforcement effort, but we are trying to put one together with the limited resources we have.

PROTECTION OF DOMESTIC MOTOR CARRIER INDUSTRY

Senator KASTEN. Chairman Taylor, I just want you to know, and I think you do know, that there is a keen interest in this whole area on behalf of a number of elected officials. It is a bicameral interest. It is a bipartisan interest. It is of great concern.

As we look at our domestic trucking industry, as we look at many of our domestic industries, we see threats from imports. We see threats from a number of different directions, and, frankly, in this administration with your help, I hope, we want to——

Mr. TAYLOR. You will have it, sir.

Senator KASTEN. If we cannot force common sense and balance upon our neighbors to the North and the South, then I believe that we have to react and that we have to react in a determined and businesslike way to preserve our domestic motor carrier industry.

We in the Congress are not going to tolerate a whole lot of studies and a whole lot of different kinds of meetings and a whole lot of different kinds of things. The fact is that the number of these applications that have been granted—I know you have put a hold on them right now—have skyrocketed as a result of the deregulation bill.

I support the idea of deregulation. I think most people in the industry do, but this was unanticipated. It is a major problem, and I look forward to working with you and your fellow Commissioners to solve this problem.

Mr. TAYLOR. Thank you, Senator. We look forward to working with you, too.

EFFECT OF BUS REFORM ACT ON SMALL COMMUNITIES

Senator ANDREWS. Thank you, Senator.

In your testimony before the Senate Commerce Committee earlier this month on regulatory reform of the intercity bus industry, you stated that one of the issues, that the crux of reform for the industry, was eased entry and exit.

Mr. Taylor, there are a great many small towns in this country that are served solely by intercity buses, including those in my home State of North Dakota. How will the bill presently being considered, H.R. 3663, the Bus Regulatory Reform Act of 1981, affect service to these small towns and communities?

Mr. TAYLOR. We do not think there will be—and, again, I don't want to positively——

Senator ANDREWS. Who can?

Mr. TAYLOR. We wouldn't have sponsored the legislation if we thought the small communities were going to be hurt. They are not going to suffer as a result of this.

Senator ANDREWS. Would you feel that you can give us assurances that these small towns will continue to be served?

As you know, the lucrative markets for intercity buses are between major cities, not small towns. This legislation would seem to allow bus companies on intercity runs to bypass the smaller markets where service is so badly needed.

Mr. TAYLOR. But it also allows an opportunity, Mr. Chairman, for people representing the small communities or the State commission to come forward and show that serving that community is not a burden on interstate commerce. It is in the public interest to do so.

ALTERNATIVE BUS SERVICE IN SMALL COMMUNITIES

Senator ANDREWS. They can show all of that, but how do they then get the intercity bus lines to come serve Casselton, N. Dak., if you have this deregulation?

Mr. TAYLOR. I think the best way to do that is through planning. If I might, it is not a part of the House bus bill at the moment, but I was fortunate enough to be able to sit next to Congressman Howard at this luncheon we just attended. I ran it by him quickly to see what he thought.

The chairman of the Illinois commission came in the other day. He said, we support your bus reform legislation. We think it is a great idea. We want to see it get on.

There is only one thing we would like to fine-tune it with. As is the case with the railroads who must file a system diagram map and indicate those lines that are up for abandonment in the next 12 months, we would like the bus people to do the same thing. Then if it became apparent that some little town in southern Illinois is going to be without bus service, we could sit down with that local city council or local officials and we could see about arranging local carrier service to that community.

He said the problem is to do this in a 60-day timeframe when everybody has their muscles flexed.

Senator ANDREWS. I think that is an excellent suggestion, but it is a nonoperable suggestion. If you have these small towns out in rural States and let the Greyhounds or the bigger bus lines bypass them, then what do you do? Do you get a "rickety poo" outfit to come out there and run the 50 miles into the big town and then wait around in the big town to go back to the small town? The trouble is that if you are going to give service, you ought to give service to the area instead of just letting them skim the cream.

Mr. TAYLOR. I agree with you.

Senator ANDREWS. The major airlines are leaving the smaller towns and going point to point, putting flights on top of each other. Out of Bismarck, N. Dak. it is 6:35 in the morning. There are three flights within 20 minutes. Then you don't see an airplane for 6 hours. It is ridiculous.

Mr. TAYLOR. We have the same problem in Nevada.

Senator ANDREWS. You have the same problem in bus service. Some buses are express buses, but other buses have the obligation to stop at every reasonably sized town down that particular route, and that gives the area the appropriate coverage.

Now, if you say that all of the buses can do what they darn well please and the city fathers of the little towns are going to come in and get somebody else to serve that town, boy, that is wishful thinking.

Mr. TAYLOR. Let me give you an example of a situation that developed in Nevada which we were able to work out. It was not one of the major bus carriers, but a little operation called Nevada Central. It served back and forth between Reno and Ely.

They finally went out of business and there wasn't any service for quite awhile. The chairman of the Nevada commission at that time used to plead with me and even with a couple of my trucking clients, can't you put a couple of benches in the back of their truck to haul people back and forth to Ely. We don't need a 47-passenger bus.

We worked and worked on the matter with some help from the community. It wasn't long before a fellow who formerly worked for one of my clients decided to run some vans back and forth. Now there is service to those communities because, in addition to people—and there are a couple of little isolated places on the route—they also take tires and they take batteries and they take parts for automobiles that have stalled out in the middle of the desert. There is no way in the world that that sort of material is going to get out to them if it does not go on the bus.

But there is now a van service that operates quite successfully. He has developed some of the mining activities that are going on in the eastern part of the State, running some charter and special service groups into Reno over the weekends. He is going to make it pay. It can be done if you sit down and plan it out and have advance notice.

ENTRY AND EXIT IN THE BUS INDUSTRY

Senator ANDREWS. It is being done right now. They have Greyhound package service. You can get these small parts and get these small engines and other items sent on the bus.

Are you telling us that what we do with deregulation is to take those buses out and hope we will have another smaller bus line come in to pick up those parts and the rest? It might be 3 or 4 days where you do not have some parts and one day you have quite a bit, but all of the cities collectively will average out to give a fair-sized load.

I guess the question I want to ask, Mr. Taylor, is: Do you support completely open entry and exit for the intercity bus industry?

Mr. TAYLOR. I support the House legislation. I don't think that is total open entry and it is not total open exit.

Senator ANDREWS. That means you support H.R. 3663?

Mr. TAYLOR. Yes; I do.

Senator ANDREWS. Is there any difference between the two?

Mr. TAYLOR. Between what?

Senator ANDREWS. Between completely open entry and exit for the intercity bus industry and H.R. 3663.

Mr. TAYLOR. There are some limitations on entry. They have to prove they are fit, willing, and able. You have to remember entry is not the big concern in the bus industry that it is in the trucking industry.

Senator ANDREWS. I am not worrying about entry either. I am worrying about exit.

Mr. TAYLOR. Right. You really only have the two big carriers that are 60 percent of the operation.

Senator ANDREWS. Can you provide for the record, Mr. Taylor, some more of your reasons behind your seeming assurance that H.R. 3663 is not going to be detrimental to these small towns?

Mr. TAYLOR. Certainly, Mr. Chairman. We would be glad to.

[The information follows:]

The belief that eased entry in combination with eased exit and other bus bill provisions will not have an overall detrimental impact on availability of service to small towns is based on several considerations. These include: (1) the language of the bill; (2) the effect of "incentives to serve" on the actions of bus companies and potential bus operators; (3) the Florida experience and California projections, and (4) the impact of the Motor Carrier Act of 1980 on small community service by motor carriers of property. These three areas are closely related.

The language of the bill itself, as it passed the House, requires consideration of the small community problem. As stated in the House report on H.R. 3663,[1] one of the Committee's major concerns about bus regulatory reform was the potential impact on the level of service to small communities. For that reason, various safeguards were included in the legislation. The national transportation policy sets forth a goal of providing and maintaining service to small communities. In addition, the entry, exit and restriction removal provisions of the bill direct the Commission to consider the effect on small communities. There is an easy entry test for new service where a community does not have regular bus service, and there is a specific requirement in connection with exit that the Commission consider whether a community is losing its last bus service to the area.

While we do not know at this time what the final form of the legislation will be, Senate Commerce Committee members present at the bus legislation hearing on March 8, 1982, made it very clear that service to small communities is one of their key concerns.

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[1] H.R. 97-334, 97th Cong. 1st. Sess 27 (1981).

Thus, we believe that any bus legislation enacted will contain appropriate safeguards with regard to service to small towns.

Experience with the current system of Federal and State regulation indicates that there has been a decline in the number of locations served by intercity buses. From 1969 to 1979, more than 1,800 locations (approximately 10 percent of all communities served by bus) lost bus service. This suggests that, even with regulation, demand in many locations could not support the types of bus service offered at the time service was discontinued. It is likely that many of those locations could support some type of bus service tailored to local needs. However, entrepreneurs who might be interested in providing service may be unwilling to begin such service if they perceive that they may be forced to continue the operation regardless of its financial performance, i.e., a lack of freedom of exit. We believe that eased entry and exit will greatly encourage new service either to replace bus service that is lost following regulatory reform or to provide new service to communities that are not currently served.

As the Florida experience indicates, the proposed regulatory reform would likely result in a loss of service to a few communities and improved service to others. Where bus service in Florida has not been replaced, analyses indicate that inconvenience rather than hardship has been the typical result. Those communities that lost service generally had alternative bus service available. On the average, this service was 9 to 11 miles away.

Florida, of course, is different from rural states in many respects. The Florida experience is very informative, but cannot be used to precisely forcast effects elsewhere. However, California, though highly populated in many areas, has hundreds of rural communities. A comprehensive study by the California Department of

Transportation (CALTRANS, October 1981) projects the impact of regulatory reform of the intercity bus industry on service within the state. CALTRANS believes that the most likely scenario under economic deregulation would result in a loss of 20 percent of the state's present bus route-miles over a 5-year period. They project, however, that 5 percent of these would regain service over this same period. Without any regulatory reform, CALTRANS projects a reduction of 5 percent in route-miles served. Thus, deregulation would lead to a net loss of 10 percent. CALTRANS asserts that the level of demand of many small communities for bus services cannot support bus operations. Thus, a subsidy by the regions or localities benefiting from the service would be required if it were to continue.

Prior to passage of the Motor Carrier Act of 1980, many felt that freight service to small rural communities would be adversely affected. Due to these concerns, Congress required the Commission to conduct an in-depth study of the effects of deregulation on service to small communities. Results from a scientific survey of shippers in these communities indicate that where there has been a change in service, it has generally been for the better. We believe an important reason for this generally favorable result is that carriers can experiment with new or innovative pricing or services knowing that they will not be locked into a position of having to continue to provide unprofitable service if the demand is not sufficient to support it. The same incentive is likely to occur with regard to intercity bus service. This should work to the overall advantage of small and rural communities.

FLORIDA DEREGULATION OF BUS AND TRUCKING INDUSTRIES

Senator ANDREWS. In the State of Florida intercity bus and trucking industries were deregulated in 1980. Do you have any indications of how this legislation changed service patterns for intercity buses in that State?

Mr. TAYLOR. Our knowledge of Florida—and I have plans to go down there and meet with the Florida Public Service Commission and certain other people who have been monitoring that situation closely—is that it has not been a problem.

Every indication is that the Florida operation has worked pretty well. I think there may be some isolated problems here and there. That is one of the reasons I would like to go down and get some firsthand knowledge myself. All indications are that the Florida experience has been successful.

IMPACT OF BUS DEREGULATION ON SMALL CARRIERS

Senator ANDREWS. With the valuable insight we have on this committee from Senator Chiles, I am sure we will be able to make certain that your assessment is either accurate or somewhat off-the-wall so we will be interested in comparing your assessment with what our colleague has to say.

What do you anticipate will be the impact of intercity bus deregulation on smaller carriers?

Mr. TAYLOR. On smaller carriers?

Senator ANDREWS. Yes.

Mr. TAYLOR. They are the ones who are most concerned about the entry problem. We have not had any new people in the bus business apply for authority to provide intercity scheduled, regular route bus service in a couple of years, but the little guys are all very concerned that if this free entry, or freer entry, I should say, should come about, that they may be gobbled up by Trailways and Greyhound. Obviously those two would have to be adjudicated fit, willing, and able. So presumably they can serve anywhere they please.

I don't think it is going to work out that way. I think there is going to be plenty of room for the little people to involve themselves.

The fact of the matter is that the small carriers have supported the House bill as a part of the association. It wasn't just a Greyhound-Trailways effort to get greater rate and exit flexibility for just themselves. The little guys went along with them.

Senator ANDREWS. That is kind of like the fox getting in the chicken coop. I remember the railroads all came in and supported railroad deregulation and then they raped all the small towns and the branch lines. So are we going to have the same thing here?

Mr. TAYLOR. No; I don't think so. I think it is going to work well.

Senator ANDREWS. I think you are an incredible optimist. [Laughter.]

Mr. TAYLOR. It is more fun than being a pessimist.

SLOWING THE PACE OF DEREGULATION

Senator ANDREWS. We are establishing a record we can compare with next year.

There have been a number of reports, including one by the Joint Economic Committee and the President's Economic Report released last month, criticizing the slow pace of regulatory reform in the trucking industry. In the latter it was reported that the Commission has imposed increased restrictions on the scope of new operating authority and rejected a number of applications for rate reductions. What is your response to those charges, Mr. Taylor?

Mr. TAYLOR. I know you do not have time for my full response, but I would like to make a couple of points, if I might.

Senator ANDREWS. By all means, put your full response in the record so our clerks can look over it.

Mr. TAYLOR. I would like to say that I completely reject the assertion that the ICC under my direction has moved to reverse the progress toward deregulation.

I strongly believe that the Commission is implementing the act, which is not total deregulation, which a lot of people do not seem to understand, in a manner that encourages entry and competitive ratemaking.

The report bases its conclusions on testimony presented by four advocates of total deregulation of the trucking industry who believe the whole place ought to be burned down tomorrow.

The testimony of those persons was not based on fact or existing law; rather it was premised on their view of what they thought the law should be. The underlying theme of the report is that the Commission has not permitted total deregulation of the motor carrier industry. I agree.

However, as pointed out by various members of the committee in additional and dissenting views, because they didn't even have a majority, the Motor Carrier Act did not totally deregulate the industry. It made substantial reforms but stopped short of deregulation.

The most glaring error in the whole report is that it is entirely predicated on a misunderstanding of the law. Here am I called up to be evaluated and judged on our performance under the law and the committee does not seem to understand that evidence of public need is still a standard, and the report so indicates. How in the world they can sit there in judgment of me and my performance under the law without even understanding what the law provides is still a mystery.

I could go on and on about this. But what we would like to do, since we did prepare a full and complete response even with respect to the cases cited by some of the witnesses, if we could submit that for the record.

[The information follows:]

JEC REPORT
ON TRUCKING DEREGULATION

* * *

The report is replete with erroneous and misleading statements of fact and law. Comments on specific portions of the report follow.

- The Committee report (page 3) attempts to provide an aura of fairness and respectability by reference to testimony from a "bipartison" panel. The intended inference is that diverse views were considered: this is not the case. Except for Chairman Taylor who was not a member of the panel, all witnesses were outspoken advocates of total deregulation which is not the position adopted by Congress when it enacted the Motor Carier Act of 1980.

- The report accuses Chairman Taylor of reversing the progress toward deregulation. The statement is untrue. There has been no reversal of efforts to move toward a more competitive market as called for by the Motor Carrier Act. On the contrary, not only has the Chairman carefully followed congressional intent, but he has also proposed legislative changes which will substantially ease entry.

- In several instances, the report makes unfavorable comparisons between Commission actions and a "freely competitive trucking market." A free market may indeed be a worthwhile goal, but it is not consonant with the Congressional goals and findings set forth in the Motor Carrier Act. That legislation called for "competitive and efficient transportation services" pursuant to "regulation by the ICC subject to "well defined parameters within which it may act pursuant to congressional policy." A "freely" competitive market is clearly not envisioned in view of the continuation of antitrust immunity, entry requirements, rate regulation and the specific statutory prohibitions against discrimination and predatory practices.

- The report refers to elimination in 1984 of the antitrust exemption from single-line price fixing "for large general freight firms." In fact, the provision applies to all carriers, regardless of size. In this regard, it should be noted that "large general freight firms" do not for the most part oppose removal of immunity. It is primarily the smaller motor carriers which contend they will be adversely affected by the provision.

- A serious misstatement of the law on page 4 (last paragraph) undermines the report and is the basis of other misstatements appearing throughout the text. The report assumes Congress adopted a "fitness only" test, as presently advocated by Chairman Taylor, absent a clear demonstration that a grant of authority would be inconsistent with public convenience and necessity. This is not present law. Before authority can be granted, the Motor Carrier Act requires evidence "that the service proposed will serve a useful public purpose, responsive to a public demand or need." (Section 10922(b)(1)(B)). This clear statutory requirement is consistently ignored in the report.

- The panelists defend prior extremely broad grants of authority by the Commission as legally permissible; the Court of Appeals for the Fifth Circuit disagrees. (See American Trucking Associations, Inc. v. Interstate Commerce Commission, 659 F. 2d 452, October 1, 1981). While the legislation moves toward freer entry, it does not totally deregulate motor carriers. As interpreted by the court, the law in its present form does not permit the Commission to require applicants to accept more authority than they are willing or able to handle. Any other construction of the required case-by-case approach makes a mockery of the statute.

- The report contains an arbitrary statement that the Commission has clearly retreated from "free market principles." Again, it should be emphasized that eased entry, rather than free entry, is called for by the statute. In addition, the report does not contain any evidential basis for the conclusory statement on free market principles. Out of thousands of cases, the report superficially discusses several proceedings. The facts with regard to those cases are presented separately as an appendix.

- The report erroneously indicates that operating rights have value. Such rights have no value; the few purchase transactions that have occurred involve goodwill and personal or real property, not operating rights.

- Except for cursory random checks, tariff examinations are limited to responses to complaints. There is no basis for the statement that tariff filings are reviewed more closely than "before" unless "before" is a reference to a period under Acting Chairman Alexis when there was no review of tariffs. Transfer of several persons to the Section of Tariffs is contemplated as a deterrent to illegal filings, but to date there has been no increase in staffing in the Section of Tariffs.

- Based on statements by a panel member, the report concludes that a particular motor carrier adequately rebutted allegations of predatory pricing by referring to policies of the "airline industry and to grocery stores." General statements of this nature do not constitute the type of evidence entitled to weight under the Commission's suspension procedures. A simple presentation of cost information would have been adequate to permit the ICC to determine the merits of the matter--but such evidence was not presented.

- The report indicates that an enforcement budget means "examining every tariff, every price change." The record is clear that this is not the case. In fact, it would be impossible with a staff 50 times the size of the I.C.C., since the Commission received 646,811 filings in the last fiscal year. Rather, the Commission's enforcement staff, like that of the IRS, serves as a deterrent to illegal rebating and other unlawful actions. The Chairman's testimony on this important issue is not even mentioned in the report.

- Oral hearings are held very infrequently. Out of approximately 10,800 motor carrier cases filed between July

1, 1981 (the first full month the Chairman was in office) and December 31, 1981, oral hearings have been held or are scheduled in less than 20 proceedings. Two-thirds of those cases involve fitness issues. The hearings are not set in Washington, as alleged, but are ordinarily held at locations which are convenient for the parties.

- The House Report, which was accepted by the Senate as the Conference Report, states: "The new entry section provides for a balanced approach to entry, which ... will encourage new applicants to file for authority to provide needed service." Further, it states: "Persons supporting the application will be required to come forward with some evidence of a public demand or need for service. Under this standard, proponents of the application must show that the service they propose would serve a useful public purpose, responsive to public demand... The normal way to establish this has been for applicants to submit evidence of some of those who would use the service proposed. The Committee thinks that this is still the most effective evidence, for it provides the Commission with the information it needs to frame a grant of authority..."(emphasis added).

- In light of this clear report language and the decision of the Fifth Circuit of the United States Court of Appeals, grants of authority limited to that which is requested and supported by the evidence of public need would appear to be consistent with Congressional intent.

- Accusations made by panelists that "the quality of grants has deteriorated" are unsubstantiated on the record.

- The report states that the Chairman voted against an appeal of the decision of the Fifth Circuit of the United States Court of Appeals. On the surface, this statement is correct. However, the report fails to note that his decision was reached after consultation with the Commission's General Counsel as to the likelihood of the Commission's prevailing on appeal.

- The report, in quoting from the Chairman's prepared remarks with respect to his proposal to eliminate the "public need" standard with respect to operating rights applications, takes the quote out of context in an attempt to show that the Chairman's desire for a precise "fit, willing, and able" standard is a ruse to promote new entry barriers. The omitted portion of Chairman Taylor's testimony stated as follows:

> "I want to emphasize, however, that the 'fit, willing, and able' test should be one which does not reinstitute entry barriers! The purpose of my proposed revision is to further relax entry standards in keeping with congressionally prescribed standards, and not to create any new barriers. To make this purpose abundantly clear, the statute and report language should spell out the congressional intent that new entrants, including minorities and small businesses, ought to be able to obtain operating authority more easily." (emphasis his).

DISCRIMINATORY AND PREDATORY PRICING

Senator ANDREWS. Do you on the ICC take a close look at discriminatory freight charges?

Mr. TAYLOR. We have not done much about that up until now, but the words "predatory" and "discriminatory" are in the statute.

Senator ANDREWS. I know. I love those words.

Mr. TAYLOR. They are great words, but nobody at this point, including our own staff, really seems to know how they should be interpreted.

We have a petition that has been recently filed by a group of truckers. There should be a hearing to let all parties come forward and say, so the definition is not in conflict with the Motor Carrier Reform Act or with the Staggers Rail Act, which are supposed to encourage innovative price offerings and discounting.

It seems to me since Congress left those words in the statute, there has to be an area that is predatory and an area that is discriminatory. We are endeavoring to put some light on that for the benefit of shippers, carriers, and ourselves.

GRAIN SHIPMENTS

Senator ANDREWS. You intrigue me, Mr. Taylor, when you say you don't understand what predatory and discriminatory mean.

Let me run something by you. Grain is grain, essentially, that you ship in boxcars or trucks, isn't it?

Mr. TAYLOR. Yes.

Senator ANDREWS. You think so. There is a railroad in this country that charges for the shipment of wheat between the hometown that I happen to farm in and Minneapolis, which is a major market; I think it is 71 cents a hundredweight to ship it to a principal area, Minneapolis.

Then there is another crop, sunflowers. They charge about 71 cents a hundredweight to ship sunflowers from North Dakota to Minneapolis, Minn., even though you can only get half as many sunflowers in a car. So it could be considered difficult to justify.

Then malting barley, which is the principal crop we grow in North Dakota, they charge $1.29. In effect, they gouge almost 60 cents a hundredweight out of the pockets of every farmer in our State; that, I would certainly describe as discriminatory and predatory.

I think your people can find the definition of the words you just mentioned.

I called the president of the railroad 4 or 5 weeks ago to ask about the rate differential. He said, "Gosh, I don't know why." I talked to the representative down in Washington a week and a half ago. I haven't received any answers.

Do you suppose your people who are interested in predatory and discriminatory can dig up a definition for that kind of a rate structure?

Mr. TAYLOR. We certainly can.

[The information follows:]

The Commission in a number of cases has construed the statutory prohibition against unreasonable discrimination. To support a finding of unlawfulness, the following elements must exist: (1) a disparity of rates; (2) actual or competitive injury to the complaining shipper: (3) control of the lower and higher rates by a common railroad source: and (4) an absence of differences in transportation conditions that would justify the rate disparity. In other words, the compared rates must be for a like service under substantially similar circumstances and conditions. This requirement has been made more stringent by the Staggers Act which limits the prohibition against discrimination to rail rates over the same route except where ports are involved.

The rates you refer to as discriminatory can be challenged by the filing of a complaint. Additionally, if there is market dominance, the reasonableness of such rates was subject to challenge under section 229 of Staggers (the savings provision) or in connection with future rate filings. I note the North Dakota Public Service Commission is presently challenging the lawfulness of various Burlington Northern grain rates in a number of complaints filed pursuant to section 229. (Dockets Nos. 38550S through 38558S).

DISCRIMINATORY RATE FIXING

Senator ANDREWS. They make a bigger profit off a car of barley than they do off a car of dynamite, I understand. That has been floating around for a long time. What recourse do the farmers out there have against that kind of discriminatory rate fixing?

Mr. TAYLOR. If I might respond to your last point first, that is my concern, too. If there is not an available remedy at the ICC to something that is alleged to be predatory or discriminatory, there really isn't any place for them to go. That is why I think we have to respond.

I did not mean to imply that we do not understand what the terms mean. It is a matter of defining them.

But take the word "predatory," for example, which means lowering your rates to the point where they are below your actual costs, and then when you have driven the competition off the field, putting them back up again. The problem with that whole scenario is, what kind of costs are you talking about, variable costs?

We have had "predatory" in the statute since 1935. There are not sufficient guidelines and information available. We have some rules. I think we ought to have a proceeding to determine what kind of costs we are going to use, particularly in the trucking area.

Senator ANDREWS. That is why I asked. In fact, I had forgotten those telephone conversations. I was in St. Louis last week talking to 1,100 very irate milk producers. We weren't even talking about shipping grain, but when you brought up those words, you reminded me of those telephone conversations.

If you are, indeed, looking into predatory and discriminatory, I would like to have you look at that because I don't seem to be able to get any satisfactory answers.

Our conversation was prefaced by our agreeing that grain really is grain. If you ship a car of grain, it costs so much to ship it so many miles. Why you should charge twice as much to ship a certain type of grain as you charge to ship another type of another grain, does not make any sense.

As a matter of fact, they ship barley the same distance, to the head of the lakes, Duluth, for the 71-cent rate. If you classify your barley as feed barley, you get darn near as much for it at market as if it is malting barley going into the Twin Cities market. No one in North Dakota has been able to find out why, and maybe since you are becoming an expert in predatory and discriminatory, you may be able to help us out.

We will have an interesting example of how you function down there.

Mr. TAYLOR. We are going to try. I hope the proceeding will be held soon. I have been trying to get it moving for some time. I hope we will have the support for it.

LEGISLATIVE PROPOSAL

Senator ANDREWS. I understand also that you propose to eliminate public convenience and necessity guidelines in the Motor Carrier Act for evaluating entry applications in the trucking industry in favor of placing greater reliance on the applicant being fit, willing, and able to provide service.

Critics claim this new standard could be interpreted to be far more restrictive than the current law. Is this your intention?

Mr. TAYLOR. Absolutely not. I have said that I don't know how many times and how many places.

Senator ANDREWS. You do not feel that such a change is needed in the present law?

Mr. TAYLOR. I feel that the evidence of public need standard has become a ridiculous, silly little game because any trucker can go out and get any shipper to sign any support statement he likes. I used to be a motor carrier lawyer and it is not very difficult to do.

The point is that if you handle them the way the Commission has—and the fifth circuit has specifically addressed that matter now—our grant rate and what we are doing is not a bit different. I analyze every case that comes up there as carefully as I can. It is not a bit different than our predecessors were.

The important thing that we ought to be doing is focusing on fit, willing, and able, which is a test the fifth circuit has said has been ignored.

It is not only that one particular ATA case. Each week there are at least a couple of cases that our general counsel brings back that my predecessors acted upon and says we can't defend this in court. Will you take it back and reconsider it?

Some of them are ATA fifth circuit case-related and some are not. That is one of the problems with that standard. It is very confusing and it does not really accomplish its job. It has not been adhered to properly and as a result I don't know where we are with the common carrier obligation today.

One of the important considerations, too, is we have a lot of high priced people in proceedings that are playing with that standard every day. I don't think you have to carve a Michelangelo statue out of a certificate. That was one of the reasons for having that evidence of public need standard, so the trucker would haul perhaps only beets and not other kinds of vegetables and so on within a described area.

I think we can do a lot better. Maybe it won't be as carefully carved a product, but I think we can do better with a meaningful fit, willing, and able standard. I have no intention of it being a stricter barrier to entry. But I think the public deserves to know that the people that we certificate and put out on the highway know how to conduct a safe operation.

COAL SLURRY PIPELINES

Senator ANDREWS. Should the Commission be given regulatory jurisdiction over construction operations of coal slurry pipelines?

Mr. TAYLOR. I have been in a real spot with that.

Senator ANDREWS. I figured you had and I thought it was about time for you to answer that.

Mr. TAYLOR. You want to see me squirm a little. As you know, the railroads oppose that rather strenuously. My feeling is that the railroads will be able to compete with coal slurry. I know the administration has taken a States' rights posture with respect to it and are not opposing coal slurry pipelines as such.

We think they are a grand idea, but we do not think this eminent domain should be handed out by the Federal Government. Of course, that is the whole key to the bill. If you are not going to have the eminent domain provision in it, then there is really not a lot of point in the legislation, though the people in the West tell me that they can do it without eminent domain. Whether or not they can remains to be seen.

By the time they get through with the enormous capital expenditures to construct those lines, I don't think the argument that they can do this for half of what the railroads can and are going to tear up all of the railroad business is valid. I think the railroads can compete.

Of course, the minute I said this I was visited by the Burlington-Northern and the CSX people, who wanted to tell me about all of the disastrous things that are going to happen to them if, in fact, coal slurry comes into being. They are particularly concerned about the long-term contracts which the coal slurry people would have to enter into with the utility companies if they are going to get them financed.

But the railroads have the opportunity to enter into long-term contracts, too, under Staggers. That is one of the things that was done for them. At least one of the principal railroads I have discussed this issue with thinks that perhaps they can be competitive with coal slurry.

I am not speaking for the Commission because they didn't authorize me in our coal slurry testimony to speak in favor of or against but simply to say eminent domain is a question Congress will have to decide.

Personally, I think coal slurry pipelines are a good idea.

ADMINISTRATION'S VIEWPOINT ON COAL SLURRY PIPELINES

Senator ANDREWS. Are you telegraphing the point of view that the administration is going to take, Mr. Chairman?

Mr. TAYLOR. I didn't know how they were going to come down on this until we testified before the House committee and Secretary Watt was reading the President's statement about the States' rights issue. That was the first knowledge we had of exactly what the White House posture was going to be.

I think if you carefully read that statement, it was made very clear that the administration does not oppose coal slurry pipelines. But they do feel that the eminent domain question should be resolved at the

State level to the extent possible. I think the question is left open, so that to the extent that can't be done, maybe there would be another look.

So I think when I suggest that coal slurry pipelines are a good idea, that I am not as inconsistent with the administration as it might appear. I just feel that it is a great innovative thing and it would afford some real competition.

I don't think that the railroads are in such a posture that they would be tossed out of the ball park and unable to compete.

In fact, you can make a strong argument that if the ICC is given jurisdiction, over both the rails and the coal slurry, that balancing act could go on. I think if we realized that the construction of a certain coal slurry pipeline was automatically going to put a railroad out of business, we would take that into serious account. So I rather think the legislation is a good idea.

Senator ANDREWS. Would you be able to tell?

Mr. TAYLOR. Nobody's crystal ball is perfect, Senator, but we would sure do a very thorough job trying to find out and getting all of the information together that we could.

EFFECT OF COAL SLURRY PIPELINES ON OTHER COMMODITIES

Senator ANDREWS. If you take the coal off the railroads and put it in the slurry pipelines, then don't the shippers of lumber and grain and other commodities have to pay proportionately that much more for the roadbeds and the other fixed costs of those railroads? Aren't you, in effect, putting a supercharge on the economy of that area?

Mr. TAYLOR. I think you would if you took all the coal out. But with the number of coal slurry pipelines they are talking about—it seems there are only three or four serious ones that I hear about—you are not going to take all of the coal away from the railroads.

If you listen to people like Mr. Bagge talk about what is happening in this country with coal exports and the enormous business that it is going to become and the enormous coal reserves in this country, I think there is plenty there for everyone. I don't foresee competition in the coal area creating the sort of surcharge situation in other commodities that you are suggesting.

Senator ANDREWS. Any amount that comes off of normally rail-shipped products means that the products that continue to be shipped by rail have to pay a greater proportional share of the fixed costs that lie in any particular railroad, isn't that true?

Mr. TAYLOR. That is true, but I think it is up to the railroads to be competitive. I think they can be. I don't think they are going to lose all of the business, even to the so-called utilities.

1982 SUPPLEMENTAL FOR DIRECTED RAIL SERVICE

Senator ANDREWS. Turning to your 1982 supplemental request, I would like to ask you a few questions before we adjourn. When do you anticipate a verdict in the ongoing litigation over the $14 million in disputed revenues concerning the Kansas City Terminal Railway Co. and the trustee of the Rock Island Railroad Co.?

Mr. TAYLOR. Might I ask our legislative counsel to respond to that, Mr. Chairman?

Senator ANDREWS. Fine.

Ms. ROSENAK. We are hoping there will be a decision in one phase of that case very soon.

Senator ANDREWS. How soon is very soon?

Ms. ROSENAK. We have asked that question of the general counsel and we have been advised that a decision on one matter had been promised by March. However, no decision has yet been forthcoming. We would anticipate a decision certainly within the next several months. However, the ultimate outcome will not be determined for at least several years.

Senator ANDREWS. As I understand it, you stated you think the final decision will be favorable to the Kansas City Terminal and the Government and that the $8 million will eventually be recovered.

Ms. ROSENAK. That is our position.

Senator ANDREWS. What basis do you have for making that optimistic forecast? We shovel a lot of smoke around this place, and under the circumstances it is kind of intriguing to see somebody else come up——

Ms. ROSENAK. The position we have taken is that the Government has been simply assisting Rock Island in fulfilling its common carrier obligations and not taking its property; that the claims of the trustee do not have merit. We simply feel that there is a good likelihood that in the end we will prevail.

Senator ANDREWS. Your formal request for supplemental funds stated that the $8 million would be needed by mid-February 1982. That time has come and gone without congressional approval of the supplemental request.

Has the Kansas City Terminal Co. continued its directed service rail accounting operations throughout this period?

Mr. TAYLOR. Yes; they have. As a matter of fact, I guess we are safe now until April 30.

INTERIM FUNDING FOR KANSAS CITY TERMINAL DIRECTED RAIL CARRIER

Senator ANDREWS. What was the source of their funding?

Mr. TAYLOR. They sent us a wire and they said in response to our request that they continue and that we were actively seeking the funds here. They would try to continue on until April 30.

We ought to, rather than read it, submit that for the record.

[The information follows:]

[TELEGRAM FROM V. A. COE]

Hon. REESE H. TAYLOR, Jr.,
Chairman, Interstate Commerce Commission,
Washington, D.C.

In response to the ICC's request KCT's Board of Directors and owners have authorized the advance by this company of funds which will be sufficient to continue DRC accounting operations to April 30, 1982, but not to pay outstanding bill or claims. The advances will be made only upon the conditions that: (1) the amounts advanced will be reimbursed by the ICC as expenses of directed service, with interest at prime, as specified in the introductory statements to appendix A to the Commission's report in Regional Rail Reorganization Act—submission or cost data, 348 ICC 251

(1975), and (2) the ICC will continue its efforts to obtain both additional appropriations for Rock Island directed service, and interim funding pending action by Congress. Termination notices for all clerical positions were posted on February 19 as I advised in my wire dated February 10, and will not be withdrawn until the ICC advises that the above conditions will be met.

SOURCE OF FUNDING

Senator ANDREWS. Fine. But what source of funding did they have?

Mr. TAYLOR. It is my understanding they borrowed some money. Maybe Mr. McFarland could expand on that.

Mr. MCFARLAND. They borrowed it. The Kansas City Terminal Railway Co. contacted the carriers operating the Rock Island and borrowed the funds.

Senator ANDREWS. The question that the subcommittee has is: If you have gotten along without the money this long, why in the dickens do you have to declare a sudden emergency and have to put it in a supplemental?

We are trying to keep the supplemental as clean as we can. You come up with a bunch of rhetoric that said, like Chicken Little, if something happened, the sky was going to fall in. You said it was going to fall in during February. Now you are telling us they got along just fine. They borrowed the money. It was great.

Then the logical thing is: Why then is not this piece of legislation able to be passed along with the regular bill?

Mr. MCFARLAND. Because that money will run out by the end of April.

IMPACT IF SUPPLEMENTAL NOT APPROVED

Senator ANDREWS. Sure, but if you can borrow for 3 months, you can borrow for 6 months. I think you have proved to the subcommittee that you really have resources to call upon. You don't need the subcommittee to appropriate.

What would be the repercussions to the Kansas City Terminal, the Rock Island trustee, and the U.S. Government if we took no action to approve this money until such time as the litigation involving the $14 million is resolved? I imagine you would go along your merry way as you have in the last 3 months, wouldn't you?

Mr. MCFARLAND. I can't answer that. They possibly could borrow the money.

Senator ANDREWS. Borrowing potential is just as good next month as it was last month, I would think.

Mr. MCFARLAND. I would think so, but I would imagine that the parent company loaned the money on the premise that the Federal Government was going to stand behind the loan. It was a one-time undertaking.

Senator ANDREWS. Can you provide for the record a detailed breakdown of this $8 million request?

Mr. TAYLOR. Yes; we can do that, Mr. Chairman. I think the point is they furloughed some employees. I don't think they can do this again. This was a last-ditch emergency effort, just trying to get some additional time.

We will submit their response with whatever additional information we can.

Senator ANDREWS. You have already answered the question. You said, they can go out and borrow the money and they did.

Mr. TAYLOR. For this very short period of time.

Senator ANDREWS. Fine. If you can borrow it for 3 months, you can borrow it for 6 months. Senator Hatfield and the others of us have decided this business of cluttering up supplementals with cats and dogs is going to have to start coming to a stop.

[CLERK'S NOTE.—Subsequent to the hearing, the subcommittee received the following information and letter which is inserted for the record.]

COMMISSION'S CLARIFYING STATEMENT

Contrary to the impression we gave at the hearing, the Commission does not believe that funds can be borrowed for an additional three months or until the regular supplemental appropriation bill is passed. The Kansas City Terminal, in loaning interim money to the Directed Rail Carrier (DRC), was adamant that additional funds could not be loaned after this money was exhausted. It is our understanding that the KCT faces a cash crisis and that the interim loan was provided from an account set aside for necessary and scheduled capital improvements. Any delay in repaying this loan could have a disastrous effect on the financial condition of the KCT.

We would also like to clarify any impression we left that litigation involving claims between the Directed Rail Carrier and the Rock Island Trustee would be completed soon, resulting in the payment of nearly $14 million by the Trustee to the DRC. While we still believe that money owed to the directed carrier will be paid sometime in the future, we expect the litigation to continue for at least two more years and probably longer. The most recent court decision on this matter has ordered the Trustee to take part in a Commission proceeding to resolve accounting disputes with regard to directed service. That proceeding is expected to last at least six more months. Any decision reached in the proceeding will be subject to normal channels of appeal.

The $8 million we are requesting is broken down into $6.6 million for payment of estimated claims and $1.4 million for personnel and other support costs, as reflected in the following tables.

Estimated Cash Flow

March 1, 1982 - March 31, 1983

(000's omitted)

Beginning Cash	$ 110 1/	
Receipts		
Receivables	$1,065	
Trustee	1,525	
Total	$2,590	
Disbursements		
Payroll	$2,262	
Retroactive Pay	125	
Interlines	710	
Miscellaneous and Fringe Benefits	1,020	
Total	$4,117	
Cash Loss	1,527	
Ending Cash	$(1,417)	Funds needed for operations through March 31, 1983.

1/ Actual

Breakdown of Estimated Claims

(000's omitted)

Balance Sheet liabilities as of October 31, 1981 1/	
Accounts and Wages Payable	$1.1
Casualty Reserves	2.1
Estimated Vacation Liabilities	1.7
Other Accrued Liabilities	1.7
Funds needed to liquidate liabilities	$6.6

1/ The October 31, 1981, balance sheet was used because this is the balance sheet on which our prior requests have been based, and no major changes have subsequently taken place.

Summary

Total Funds Needed

(000's omitted)

Estimated Claims	$6.6
Funds needed for operations through March 31, 1983	1.4
Total Funds Needed	$8.0

LETTER FROM V. E. COE

April 13, 1982

The Honorable Mark Andrews
United States Senate
Russell Senate Office Building,
Room 417
Washington, D.C. 20510

Dear Senator Andrews:

I have followed closely the request of the Interstate Commerce Commission for a supplemental appropriation of $8 million to cover the costs of directed rail service by Kansas City Terminal Railway Company over the Chicago, Rock Island and Pacific Railroad Company (William M. Gibbons, Trustee). We understand that this request for a supplemental appropriation has been included in H.R. 5922, and is now being considered by the Transportation Subcommittee of the Senate Appropriations Committee, of which you are Chairman.

We have been advised that you and members of your staff have indicated some reluctance to consider this request on an urgent basis, rather than as part of the normal supplemental appropriations bill. The purpose of this letter is to explain why the additional funds are needed now, and to urge you to include the $8 million appropriation request with other priority items.

On September 26, 1979, under Emergency Directed Service Order No. 1398, the Interstate Commerce Commission directed KCT to operate over virtually the entire system of the Rock Island Railroad. These operations began on October 5, 1979 and continued until March 31, 1980. Since then, accounting operations have continued in order to collect remaining revenues and to pay outstanding obligations arising from the period of railroad operations.

KCT was selected by the ICC as the directed carrier because it was a competitively neutral carrier and because it could draw management personnel from all of the trunk line carriers in the midwest. The Commission was fully aware that, as a switching and terminal railroad with limited resources, KCT could not finance the Rock Island directed service operation. It was anticipated that all cash necessary for that operation would be provided by the government to the extent revenues were insufficient to cover expenses. Until recently, the funds needed for rail operations, for accounting services, and for the payment of obligations incurred, have been provided from appropriations available for that purpose. However, those appropriations have been exhausted and KCT faces an immediate cash crisis.

Although KCT has repeatedly asked the Commission to relieve it of further obligations with respect to directed service over the Rock Island, the Commission has insisted that KCT collect remaining revenues and pay outstanding obligations, and has ordered KCT to continue accounting operations through March 31, 1983 to accomplish those goals. KCT cannot do this, however, without additional federal funds. I am sure Chairman Taylor has reported to you that KCT has agreed to lend the funds needed to meet the payroll for the directed service accounting operations through April, 1982. However, KCT does not have the resources to continue the accounting operation much longer, and there is none available to pay in excess of $6 million which is required to liquidate the directed service claims against KCT that have already been identified and are now or will shortly be due and payable. The enclosed statement, based on our accounts as verified by the ICC, shows the basis for the $8 million funding request.

I do not know how long KCT can resist the demands of its creditors before it is forced to seek protection under the federal bankruptcy laws, but without additional federal funds, that may be our only alternative. KCT can, of course, sue the United States in the Court of Claims each time it is required to use its own funds to pay obligations it has incurred at the ICC's direction, but that procedure is both costly and too cumbersome to save KCT from financial disaster.

I sincerely hope this letter has helped you focus on the urgency of the situation. Additional federal funds are needed immediately to cover costs which the government long ago required KCT to incur. To delay the supplemental appropriation, even for a few months, could result in serious consequences for KCT and would ultimately increase the cost to the government.

I urge you to give the Commission's request for a supplemental appropriation of $8 million a high priority.

Sincerely,

V.E. Coe

STATEMENT OF FUNDS REQUIRED AS OF 3/1/82 (1)

Resources and anticipated receipts:			
Cash on hand	$ 110,000		
Misc. receivables	1,065,000		
Total Resources			$1,175,000
Liabilities presently identified:			
Net payroll to 3/31/83 (after contributions by R.I. Trustee)	737,000		
Accounts and wages payable	1,100,000	(2)	
Back pay	125,000	(2)	
Interline accounts, net	710,000	(2)	
Miscellaneous payables	2,720,000	(2)	
Vacation liability	1,700,000	(2)	
Casualty claims	2,100,000	(3)	
Total liabilities			$9,192,000
Net cash required			$8,017,000

(1) This statement does not include accounts in dispute between KCT/DRC and the R.I. Trustee now pending before the R.I. bankruptcy court and the ICC.

(2) All due and payable presently or in the near future.

(3) Active settlement negotiations currently in progress. Many of the personal injury claims are now in suit.

SUBMITTED QUESTIONS

Senator ANDREWS. I have some other questions, Mr. Taylor, that I would like to have you answer for the record. My colleagues also have some questions that they would like to have answered for the record. We appreciate very much your appearance here this afternoon.

Mr. TAYLOR. Thank you ever so much, Mr. Chairman. We will answer all of your questions.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

Railroad Revenue Standards

Senator Andrews. In recent years, the Commission has indicated that the rate-of-return for railroads has been "inadequate", with few exceptions. Do you believe this is still true? Have your revenue adequacy standards, where a carrier must earn a rate-of-return on investment equal to the cost of capital, sufficiently portrayed the railroad industry's financial health?

Response. Yes, it is still true that most railroads are not earning a rate of return equal to their cost of capital and are considered, therefore, revenue inadequate. There is no question but that the railroad industry earns less than their cost of capital and as an industry is revenue inadequate.

Senator Andrews. What was the industry-wide revenue adequacy standard in 1981; and in general, what was the railroad industry's performance relative to this standard?

Response. The 1981 revenue-adequacy standard (cost-of-capital rate) has not yet been decided by the Commission. Furthermore, 1981 annual report data is only now being received at the Commission. Therefore, no data is currently available. It is anticipated that the 1981 results will be analyzed by late summer or early fall of 1982.

However, for the year 1980, the revenue adequacy standard for the railroad industry was a return on investment (ROI) equal to the railroads' composite cost of capital of 12.1 percent. Against this standard only three railroads were found to be revenue adequate, the Clinchfield which earned an ROI of 19.1 percent, the Fort Worth and Denver which had an ROI of 19.3 percent, and the Pittsburgh and Lake Erie whose ROI was 17.8 percent.

It should be noted that the Pittsburgh and Lake Erie wrote down its assets in 1979. In the absence of this write-down, the net investment base would have been considerably higher and the 1980 ROI might have been less that the 12.1-percent standard. Also worth noting is that the Clinchfield is a lessor railroad with no stockholders' equity; this road is an instrumentality of the Seaboard Coast Line and Louisville and Nashville and derives its revenue by leasing property to these two roads. The Fort Worth and Denver is a wholly-owned subsidiary of the Colorado and Southern which, in turn, is a wholly-owned subsidiary of the Burlington Northern.

For all Class I railroads, the composite return on investment for 1980 was 4.2 percent. This represents the highest ROI realized by the industry since the mid 1950's.

Railroad Contract Rates

Senator Andrews. Provide for the record a discussion of the progress of rail service rate contracts since the enactment of the Staggers Act. Has there been a significant increase in the number of these types of rates filed with the Commission?

Response. Since the Staggers Act became effective, approximately 1,100 rail contracts have been filed with the Commission. In contrast about 70 contracts were filed in the two years prior to the

Act. We also note that in recent months contracts have been filed at an accelerated rate of about 100 per month.

Contracts cover a wide range of commodities subject to a variety of rate and service agreements involving such areas as car utilization, guaranteed car supply, guaranteed service, volume allowances, stable rates, truck competitive rates, and preservation of rail service. While contract rates are still in the experimental stage, we believe the contract provision is among the most important in the Act, and that the filings will continue to increase as more railroads and shippers become aware that contracts offer answers to a wide variety of transportation problems.

Rail Rate Differentiation

Senator Andrews. Does the Commission differentiate between coal carrage rates and rates charged other commodities under the Staggers Act? In other words, is there any distinction in the law for the types of rates which may be charged for one commodity as opposed to other commodities?

Response. Under Staggers, the ICC has jurisdiction to regulate rates if the rail carrier has market dominance over the transportation. The Commission does not exercise its maximum reasonableness authority differently for coal. Rates on all commodities are subject to the same standards.

The implied distinction here may have been caused by our Ex Parte No. 347 - related proceedings. As coal was one of the major commodities over which we have exercise our reasonableness jurisdiction, a number of proceedings have focused on it.1/ Our ultimate determination of what maximum reasonable standards to apply to coal will clearly affect all other commodities found to be market dominant.

Market Dominance

Senator Andrews. If it can be established that for purposes of shipping, a carrier has market dominance, the Commission can set rates to protect the shipper and still assure the carrier an adequate level of revenue. What is the Commission's definition of market dominance and what criteria is used if a market dominant situation exists?

How effective has this provision been to protect the shipper and still ensure adequate revenue to railroads?

Response. The Commission has recently completed a rulemaking defining market dominance, as amended by the Staggers Rail Act 1980.2/ Detailed guidelines were established. The statute requires shippers to prove that alternative transportation is

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1/ Ex Parte No. 347, Western Coal Investigation — Guidelines For Railroad Rate Structure (Proposed Guidelines), Ex Parte No. 347 (Sub-No. 1) Coal Rate Guidelines — Nationwide.

2/ Ex Parte No. 320 (Sub-No. 2), Market Dominance Determinations, 365 I.C.C. 118.

unavailable, or, if it is, that the cost is impractically high (that is, the railroad(s) has sufficient market power to exercise monopoly pricing).[3]

Obviously, shippers and carriers have different perspectives on the value of the market dominance jurisdictional test and the Commission's implementation of it. We believe it has been effective in allowing greater ratemaking flexibility where there is effective competition, while protecting shippers from unreasonable rates where there is market dominance. While shippers are not entirely satisfied with the revised guidelines, we think the increased attention to product and geographic competition as indicia of actual railroad market power is helpful. We recognize, however, that thorough incorporation of these issues will take time and some adjustment by the parties.

If market dominance exists, the Commission has jurisdiction over the level of the rate. The Commission has been endeavoring to develop a maximum rate standard that balances the shippers' right to service at the lowest cost, the carriers' need for revenue adequacy, the public interest in a stable rate structure, and national energy goals. In a decision served December 21, 1981, in Ex Parte No. 347 (Sub-No. 1), Coal Rate Guidelines - Nationwide, the Commission: 1) announced that development of an appropriate maximum rate policy required further analysis; 2) sought additional comments from the parties; and 3) indicated that, in the interim, a case-by-case analysis would be used. While that decision rejected the ton/ton-mile method of allocating certain costs, the Commission indicated that it remained committed to the concept of differential pricing. For many years, the Commission has recognized that all commodities cannot and should not be required to make the same contribution to railroad fixed costs. Such pricing is an important tool in assisting the railroads toward revenue adequacy. However, the Commission has also concluded that a differential approach is proper only when the non-captive (i.e., competitive) traffic recovers at least its variable costs.

Overall, there is little disagreement that a carrier's variable cost for the particular movement should be recovered in full. The major problem area has been what amount of the carrier's systemwide fixed costs should be apportioned to specific movements. We are continung to analyze the information received in Ex Parte No. 347 (Sub-No. 1), and it is our expectation that maximum rate guidelines and criteria will be established in the near future.

There have been relatively few rail rate decisions involving market dominance and reasonableness decided by the Commission or a Division in the last year.

One of the reasons is that the Notice of Proposed Rulemaking in Ex Parte No. 347 (Sub-No. 1), and passage of the Staggers Act compelled reopening of the records in various major cases, and final decisions have not yet been issued. In addition, cases filed under the Savings Provision, section 229, are still pending. Approximately 800 complaints were filed. Between 500 and 600 of these cases remain active. We do not know at this point in how many cases market dominance will be found and, if so, whether the rates will be unreasonably high.

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[3] While the burden of proving market dominance is on the shipper, railroads have the burden of proving the affirmative defenses of: 1) rates below the statutory threshold, in which case no jurisdiction exists over the level of the rate; and 2) existence of product or geographic competition. See 49 U.S.C. 10709(d)(2) for an explanation of the jurisdictional threshold.

It should be noted that the Staggers Act's specific authorization for contract rates may minimize future litigation on rates for captive traffic in view of the advantages for both shippers and carriers of negotiation rather than litigation. The extent of contracting will depend, to some extent, on the parties' perceptions of what the Commission will ultimately adopt as a maximum reasonable rate standard.

Rail Car Shortages

Senator Andrews. Last year, one of the former Commissioners testified before this subcommittee that the Commission was relying on industry and the marketplace to resolve rail car shortages and other rail service problems. Has this remained your current policy? How successful has this policy been in ensuring an adequate allocation to shippers needing rail cars?

Response. The policy is to allow the railroad industry wide discretion in meeting shippers' needs regarding car service and to facilitate line haul transportation service. The Commission has decided several cases in recent years which foster this principle. These include: the repeal of the mandatory Car Service Rules in favor of the industry's own rules; the deregulation of perishable commodity traffic and trailer-on-flat-car traffic; and a curtailment in issuing Rerouting Orders, allowing the carriers to work out alternate routing when disabilities in service arise. Moreover, the Staggers Act introduced limitations on the Commission by tightening the definition of what constitutes service emergencies that must be present before so-called "Service Orders" can be issued.

While we believe the policy is and will continue to be successful, the true test will not come until the nation experiences a serious car shortage problem. During this period of economic slowdown, the average daily surplus of all types of equipment is approximately 200,000 cars, a far different situation than the 27,000 average daily shortages experienced in 1979. Traditionally, in severe shortage periods the Commission is deluged with complaints, requests for assistance and recommendations from various sources of what should be done on a short-term basis to resolve the problems. The legislative changes, as well as administrative decisions, of the past few years, will limit some of the stop-gap solutions used in the past. The new approach relies heavily on the industry's ability to resolve its own problems while still meeting the common carrier obligation to shippers. The Commission will insist that the latter requirement be met, but the principle control will be the give and take of the market place.

Boxcar Deregulation

Senator Andrews. Please outline the proposal currently before the Commission to deregulate boxcars. What is the Commission's policy on granting exemptions to these kinds of proposals?

Response. On June 2, 1981 Conrail petitioned the Commission to exempt from regulation all boxcar traffic over its lines. The requested exemption also would apply to the movement of boxcars over other railroads as part of a through movement involving Conrail. Conrail requested that the exemption cover all aspects of boxcar movements regulated by the ICC, including rates, divisions, car-hire charges, car service, and the obligation to provide service upon reasonable demand. The carrier requested that the petition be granted immediately without the institution of a rulemaking proceeding. The Commission denied the request for immediate exemption and is currently seeking comment on the merits of exempting Conrail's boxcar movements or all boxcar movements by all railroads from some or all of our regulation.

Prior to the Staggers Act, the Commission exempted fresh fruits and vegetables by rail. Subsequent to the Act, TOFC/COFC traffic was exempted. The Commission's exemption authority for rail service is found in 49 U.S.C. 1505. Section 1505, as amended by the Staggers Rail Act, provides for the exemption of a person, transaction, or service from regulation if: (1) regulation is not necessary to carry out the rail transportation policy of the Act (49 U.S.C. 10101a); and (2) either the transaction or service is of limited scope, or regulation is not needed to protect shippers from the abuse of market power. These are the criteria upon which a Commission decision will be based.

Motor Carrier Applications

Senator Andrews. The Motor Carrier Act statutorily limits the amount of time the Commission has to process applications. Has the Commission been able to meet these requirements?

Response. The Commission has complied with the statutory time frames in virtually all motor carrier applications at the initial decision stage. Since the passage of the Motor Carrier Act of 1980, over 42,000 decisions have been rendered, with only a fraction of one percent missing the deadline. The decisions in these extraordinary cases were served within days of the deadline.

In a limited number of cases (about 2 percent) at the appellate stage we have had to extend the time frames pursuant to 49 U.S.C. §10322(i). This has been necessary in relatively complex cases in light of the short time frames permitted for processing appeals under 49 U.S.C. §10322(f)(2).

Senator Andrews. Last year you stated that the backlog of applications for motor carrier operating authority before the Commission had become somewhat more manageable. What is the current status of this backlog?

Response. For all practical purposes there is no backlog. There are approximately 3,500 applications pending at various stages of processing. We consider this a working caseload and not a backlog.

Florida Trucking Deregulation

Senator Andrews. In June 1981, your office of Policy and Analysis prepared a report evaluating the impact of Florida trucking deregulation based on responses from both shippers and carriers to an ICC questionnaire. In general, responses to the experience were reported as favorable. Since this initial phase of the evaluation of the Florida experience, have you received any additional information revealing differing results?

Response. The results of phase 1 and the first half of phase 2 of a Commission study on the efforts of Florida deregulation, conducted in January 1981 and July 1981, show that the State is generally receiving adequate trucking service. The results of the service related questions are mixed, but the overall trend appears to be toward better service. In the first phase mailing, 82.8 percent of the receivers and 82.1 percent of the shippers reported that service was always or almost always available when needed. During the six months between the two mailings, the results improved to show 88.1 percent of the receivers and 93.4 percent of the shippers always or almost always having service available when needed. Although service is available when needed, 5.7 percent of the receivers and 10.4 percent of shippers reported that there were fewer service choices available. The quality of service also appears unchanged. Phase 1 showed 87.0 percent of the receivers and 92.4 percent of the shippers always or almost always having their shipment received without loss, damage, or shortage. These measures for phase 2 are 83.1 percent of the receivers and 90.9 percent of the shippers. A table containing preliminary results follows.

FLORIDA SERVICE STUDY [1/] (Group 1)

(Preliminary Results)

	RECEIVERS			SHIPPERS		
	Phase I [2/]	Phase II [2/]	Change	Phase I	Phase II	Change
1. Service always or almost always available when needed	82.8%	88.1%	+5.3	82.1%	93.4%	+11.3
2. Available more often during past six months	20.8%	13.6%	-7.2	16.4%	9.1%	- 7.3
3. Available less often during past six months	4.2%	3.4%	-0.8	1.5%	0%	- 1.5
4. More service choices during past six months	10.7%	5.0%	-5.7	10.4%	0%	-10.4
5. Less service choices during past six months	3.3%	0%	-3.3	4.5%	0%	- 4.5
6. Shipments arrived in good condition always or almost always	87.0%	83.1%	-3.9	92.4%	90.9%	- 1.5
7. For those filing loss or damage claims reporting problems less often	15.2%	13.6%	-1.6	10.0%	7.1%	- 2.9
8. For those filing loss and damage reporting problems more often	10.9%	4.5%	-6.35	6.7%	0%	- 6.7

[1/] It should be noted that, negative changes in questions 3, 5, and 8 indicate an improvement in service levels.

[2/] Phase I - Group 1, First Questionnaire mailing of January 81 and Phase II - Second Questionnaire mailing to Group 1.

Service Contracts

Senator Andrews. One of the areas of reform in trucking that has been experiencing substantial growth are long-term contracts between shippers and carriers. How will this affect the trucking industry and the shippers it serves?

Response. The growth trend in long-term contracts between shippers and carriers should have beneficial effects for both the trucking industry and the shippers it serves. The trend is a result of the elimination of the so-called "Rule of Eight," and the flexible provisions of the Motor Carrier Act of 1980 dealing with contract carriage.

Contract carriers benefit from the certainty and stability of revenue and operations that result from long-term contracts. They do not have to constantly study competitive tariffs and service to determine the rates and service necessary to meet competition during the term of the contract. Regulated carriers that can offer both common and contract service have the ability to offer shippers more shipping options and have an advantage over less-flexible carriers. The flexibility to offer service options and to expand or reduce the number of shippers and points that can be served by contract carriage means that regulated carriers may, more often than in the past, offer advantages that outweigh those of private carriage. Therefore, private carriage appears less likely to expand as fast as in previous years, and in many instances shippers may decrease the scope of private fleet activity.

The eased entry, flexible pricing, relaxation of restrictions on contract carriage, allowing compensated intercorporate hauling and other factors that have provided the trucking industry with many new opportunities to compete have also posed new problems for carrier management. Carriers that develop the greatest knowledge of total distribution concepts and use it to become more responsive to shipper needs will fare best.

Shippers benefit from contract carriage in the same manner as regulated carriers--by the certainty, stability and specialization of costs and services. The tailoring of equipment, services, and pricing to specific operations can sometimes result in an optimum reliability of service that makes possible improved control over total distribution activities and an overall reduction in product inventory and total distribution costs. However, shippers may find that common or private carriage best suits their needs--or a combination of private, contract, and common carriage may be the answer. Many shippers may find that increased carrier competition and the number of shipping options—coupled with greater negotiating leverage for rates and service--will make private carriage less attractive than in the past.

The number of price/service options increases the need for professional distribution and traffic managers who understand the trade-offs involved in the establishment and achievement of customer service and cost/profit objectives, and how these trade-offs relate to total manufacturing, marketing, distribution planning and operations. This need for greater professional ability appears to be increasing the trend toward centralization of distribution responsibilities.

Predatory Pricing

Senator Andrews. What analysis have you done to identify situations where there is a risk of predatory pricing? Would such analysis precede the presumption of possible predatory pricing in carrier proposals to offer rate reductions?

Response. Since passage of the Motor Carrier Act of 1980, there has been greater pricing innovation and more independent ratemaking. Numerous rate reductions and volume discounts have been filed. This is clearly consistent with the public interest as set forth in the national transportation policy [49 U.S.C. 10101(7)], and such filings routinely become effective without suspension or investigation. There is no presumption of predatory pricing. On the contrary, the burden of proof is on a protestant to show probable unlawfulness before any rate will be suspended or investigated.

Charges have recently been made that some carriers are abusing the Act's pricing flexibility by engaging in predatory pricing. In Docket No. 38728, a group of 15 carriers seeks the institution of a declaratory order proceeding to establish standards or guidelines with respect to predatory pricing and the appropriate costing methodology to determine whether a proposal is destructively competitive. At present, the disposition of this petition is under consideration by the Commission.

Since the Commission will receive more than 700,000 tariff filings this fiscal year, there is no way these filings could be examined to identify situations where predatory pricing may exist. Rather, the Commission depends on complaints to identify problem areas. In this regard, we would note that a determination with regard to predatory pricing ordinarily involves cost issues and cannot be determined merely by tariff review.

As indicated above, rate reductions are generally in the public interest. We encourage and will continue to encourage a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping public. However, the governing statutory provisions prohibit predatory pricing and destructive competitive practices. Thus, we will be looking at these issues in the months ahead.

Small Community Service

Senator Andrews. Preliminary indications of a nationwide survey on the impact of the Motor Carrier Act show that carriers have not chosen to abandon service to small communities and are aggressively pursuing these markets. Is this an accurate assessment?

Response. Facts, to date, continue to show that where there has been a change in small community service levels, it has usually been postive in terms of both availability and quality of service.

Information for phase II, from the Commission's Small Community Service Study, has been obtained from questionnaires returned in our second mailing to businesses that participated in our phase I study. Of the 374 businesses that returned useable questionnaires in phase I, 228 (a 77% response rate) returned questionnaires in phase II which compares January 1981 - June 1981 with pre-January levels of service. Phase II found the same general conditions of availability of service and choice of services as found in phase I. There appear to be no major shifts in availability of service, service choices, or loss and damage claims experience. The small shifts that do occur appear to be toward better service for small communities. For example, service was available always or almost always when needed (82.9% of the time in phase I and 86.5% of the time in phase II). Of those reporting, 4.3% reported an improvement in availability of service (from 13.1% to 17.3%) between phase I and phase II, while only 0.6% reported a decrease in the availability of service. The following table shows some comparisons between levels of availability of service, service choices, and experiences with claims for losses, damages, or shortages. Phase II shows the same general conditions as phase I. The small community study, and our report to the President and the Congress, will be completed by September 1, 1982.

Group I Questionnaires[1]/
(Preliminary resutls, unweighted)

	Receivers			Shippers		
	Phase I	Phase II	Change	Phase I	Phase II	Change
1. Service always or almost always available when needed	82.9%	86.5%	+3.6%	79.5%	87.0%	+7.5%
2. Available more often during past six months	13.1	17.4%	+4.3%	14.7%	19.6%	+4.9%
3. Available less often during past six months	1.7%	2.3%	+0.6%	4.5%	3.3%	-1.2%
4. More service choices during past six months	6.5%	10.0%	+3.5%	8.5%	10.4%	+1.9%
5. Less service choices during past six months	4.6%	3.3%	-1.3%	3.4%	3.9%	+0.5%
6. Shipments arrived in good conditions always or almost always	78.9%	84.4%	+5.5%	83.2%	88.3%	+4.8%
7. For those filing loss or damage claims reporting problems less often	9.4%	12.1%	+2.7%	8.6%	14.5%	+5.9%
8. For those filing loss and damage reporting problems more often	15.5%	14.7%	-.8%	9.7%	6.6%	-3.1%

[1]/It should be noted that, negative percentage changes in questions 3,5, and 8 indicate an improvement in service levels.

Reciprocity

Senator Andrews. We have recently been hearing reports about the Reagan Adminstration's move to increase the emphasis of reciprocity in international trade. Last month, the Commission issued an order (Ex Parte No. MC-157) stating that it will not act on operating rights applications by Canadian companies until the Commission's investigation into allegations that Canada is discriminating against U.S. firms is complete. What kind of information are you seeking through this investigation?

Response. Our investigation proceeding, which will include oral hearings in Washington and several other cities, is intended to determine whether existing law and policy on the part of the Canadian government effectively discriminates against U.S. carriers, precludng their single-line participation in the transportation of international general commodity freight. In particular, the Commission is seeking factual information with regard to the effect on American motor carriers of the Canadian Foreign Investment Review Act and its administration by FIRA. We are also seeking information as to whether different licensing standards, in law or in practice, apply to American carriers at the provincial levels.

As you know, there have recently been numerous allegations of discrimination against U.S. motor carriers seeking operating authority in Canada. The issue has been raised in various Commission proceedings. It has also been a matter of Congressional concern, and legislation to remedy the situation has been introduced in both Houses. The purpose of our investigation is to determine whether there is a factual basis for the allegations.

Senator Andrews. What will be your course of action if your investigation can show that Canada has been discriminating against American motor carrier applicants?

Response. If our investigation discloses discrimination against American carriers, the Commission will have to determine the extent to which this factor can or should be considered under existing law in deciding applications of Canadian motor carriers for U.S. operating authority. It will also assist the Commission in making recommendations to Congress in this area. Should additional authority be deemed necessary, we will not hesitate to submit our own legislative proposal dealing with the reciprocity issue.

Owner-Operator Training

Senator Andrews. The Commission and several other agencies have put together a training program for truck owner-operators on such issues as how to manage a trucking operation and how to apply to the Commission for operating authority. The program, which was initiated in July 1981, will be presented in 200 cities over a two-year period. How has response to these seminars been to date? Of the estimated 200,000 owner-operators in the country, how many do you project will attend these seminars?

Response. After reconsideration, the ICC, SBA and DOT amended the goal of 200 seminars of 50 participants each. The agencies agreed to conduct a pilot of 15 conferences and, in response to numerous requests, a single repeat conference in the Chicago area. Following the overwhelming success of the pilot conferences, a second series of 24 seminars was agreed upon and is now underway. No commitments for further conferences have been made to date by ICC, SBA or DOT.

During the first series of conferences attendance totalled approximately 1,250 participants. The first 5 conferences of the second series of 24 were attended by 374 persons.

Based on past attendance and registration requests received for the current series of seminars, it is estimated that total attendance for the 40 conferences will exceed 3,000. If these seminars continue past the second series, it is believed that attendance will remain constant.

Senator Andrews. What is the Commission's strategy for owner-operator training?

Response. Communication is the crux of the Commission's training strategy. By maintaining open lines of communication, both orally and in written form, owner-operators will continue to become more knowledgeable and increase their stability in the transportation industry. Future owner-operator training objectives include continuation of presentations before owner-operator groups, dissemination of written publications, and handling of individual inquiries and complaints received from owner-operators.

Enforcement

Senator Andrews. Your 1983 budget indicates a strong interest in augmenting the Commission's enforcement activities in the rail and motor carrier areas. What evidence do you have of the effect of the Commission's enforcement efforts on the ground transportation industry? Please provide this information for the periods prior to and since deregulation.

Response. It is not possible to measure precisely the impact of enforcement efforts on the surface transportation industry as a whole. Enforcement efforts are usually directed into priority areas. When a problem area is identified, enforcement efforts are channeled into that area to reduce the level of violations. Usually these enforcement efforts result in greater compliance by the industry with the Commission's regulations and the law. However, the problems are never completely eliminated.

For the past six years, the enforcement program has been in a state of transition. During this period, certain violations shifted from higher levels of priority to lower levels and vice versa, in light of deregulation. Consequently, when new areas receive greater attention, the enforcement activity in other areas decreases due to limited resources. During the above period, the shift in enforcement priorities has reflected the changes in regulatory emphasis. In 1976, the enforcement efforts were concentrated upon the following areas:

1. Adequacy of motor and rail service;
2. Adequacy of rail car service;
3. Practices affecting capitalization;
4. Improper reporting and maintenance of records; and
5. Unauthorized control of carriers.

Additionally, unauthorized transportation and failure to maintain insurance violations were areas that were subject to enforcement, but the principal area of concern was the destruction of rate integrity through the granting of rebates and concessions. While the effect of Commission enforcement in the above areas cannot be measured, it would be accurate to observe that Commission attention to these areas served notice on the industry that the agency viewed those matters with utmost concern. Following the passage of the deregulation legislation in 1980, enforcement emphasis shifted away from items such as recordkeeping and adequacy of railcar service. Under the new Congressional mandates, the enforcement machinery is concentrated in descending order, upon:

1. Consumer service-Household Goods;
2. Rebates and unlawful concessions;
3. Unauthorized transportation; and
4. Insurance violations.

Our experience has been that where enforcement activity increases, the number of complaints decrease. Accordingly, while we may not be able to eliminate transportation violations, we do use the enforcement machinery to reduce them.

Senator Andrews. What would be the effect on the motor carrier and rail industries if road checks and compliance surveys were eliminated?

Response. By way of analogy, the elimination of the compliance surveys and road check programs would be equivalent to removing the cop from the streets. Its primary effectiveness in achieving voluntary compliance would be lost. In addition, the elimination of these programs would adversely impact on the Commission's ability to assist the rail and motor carrier industries to continue to improve operations in a rapidly changing regulatory environment.

Specifically, these programs accomplish several objectives. First, it is through the compliance survey and road check programs that we are able to communicate with the rail and motor carrier industries at what might be termed the "grass roots" level. Through this communication we are made aware of what is actually going on in the industry. We learn and the industry learns as a result of this process. We acquire a basic knowledge of the activities and state of health of the transportation industry which, very likely, would not otherwise be acquired.

These programs make it possible for those in the industry to acquire first-hand knowledge of the regulatory policies and requirements which relate to their particular situations. This educational process encourages a better level of compliance than we could expect to attain otherwise.

Second, it is through these programs that we are able to identify significant areas of non-compliance and to evaluate how and why such non-compliance is occurring. Armed with this knowledge we are better able to determine the most effective and cost beneficial methods necessary to counteract such noncompliance, including enforcement when necessary.

Finally, we believe that awareness by those in the industry at the "grass roots" level that their regulated activities are subject to direct evaluation by representatives of the Commission serves as an effective deterrent to non-compliance.

The Congress has determined that there should be laws and regulations governing transportation. It is the Commission's responsibility, as an arm of Congress, to assure that compliance is obtained through both education and enforcement. Unless there is compliance, there can be no reason for regulation.

Investigations

Senator Andrews. At what level is it decided that an investigation is necessary and on what basis? Must there be a fair amount of evidence amassed already? Is there a standard used by the Commission to determine when to investigate a carrier?

Response. The decision to conduct an investigation is generally made by top regional officials, based upon policy guidelines and emphasis areas established at the national level, which are consonant with the National Transportation Policy. The decision is based upon several other factors, such as the nature and extent of the allegations, the compliance record of the subject and the resources available.

In some cases, a fair amount of evidence may be amassed before the decision to investigate is made, but in most cases significant amounts of evidence are not developed until the investigation is underway.

It should be emphasized, however, that no investigation is begun without there being some rather strong indication that violations have occurred.

Household Goods Mover Deregulation

Senator Andrews. The Motor Carrier and the Household Good Transportation Acts of 1980 were enacted to promote competition, reduce the paperwork burden on the moving industry and strengthen consumer remedies and protections. What specific monitoring programs have been established by the Commission to collect and evaluate data on the effects of deregulation and the implementation of these two pieces of legislation as they affect the moving industry?

Response. The combined effects of the depressed state of the household goods transportation industry during the past year and the delayed implementation of the revised operational regulations due to a prolonged court challenge have limited the impact of the two Acts up to this point. Using data we expect to develop by compliance surveys, road checks, special studies, and analysis of shipper complaints, we intend to evaluate changes in the industry as it moves through the 1982 peak moving season. Where compliance problem areas develop, specific programs will be instituted to deal with them.

In any event we are several, perhaps as many as six, months away from being able to develop sufficient information on the effects of the legislation on the moving industry to reach any conclusions regarding the changes.

Senator Andrews. The Motor Carrier Act sought to promote competition in part through the easing of entry requirements. How many new carriers have received operating authority to move household goods? How many existing carriers have obtained expanded authority?

Response. Unfortunately, our automated tracking system does not distinguish household goods applicants from regular applicants. However, we have no reason to believe that the number of new applicants or the rate at which these applications are being granted is anything but proportionate with the overall figures.

The following table presents the profile of operating rights application closings for the twenty months before and after enactment of the Motor Carrier Act. Directly below the overall tally is a separate accounting of new entrant applications.

	11/1/78-7/2/80		7/3/80-2/28/82	
All Applications				
Grants	41,808	91.3%	38,204	92.5%
Partials	1,014	2.2%	1,061	2.6%
Conditionals	143	.3%	360	.9%
Without Formal Decision	1,041	2.3%	1,343	3.2%
Denials	1,778	3.9%	347	.8%
Total	45,784		41,315	
New Carriers				
Grants	1,543	92.3%	6,219	90.9%
Partials	24	1.4%	227	3.3%
Conditionals	24	1.4%	55	.8%
Without Formal Decision	60	3.6%	276	4.0%
Denials	21	1.3%	66	1.0%
Total	1,672		6,843	

Comparing the two twenty-month periods reflects a ten percent decline in closings. In large part, this reduction is attributable to the increased breadth of applications filed after the Motor Carrier Act. More significant perhaps is the increased proportion of new carrier applications since the Act. Whereas new entrants comprised only 3.7 percent of the closings before, they now make up 16.6 percent. In absolute terms, the increase is over 300 percent.

Senator Andrews. How have these changes affected the financial stability of the household goods moving industry?

Response. It is not believed that the statutory and regulatory changes brought about by the two 1980 Acts have seriously impacted the household goods transportation industry up to this time.

The increased competition, which should become more evident during the next twelve months, may result in some redistribution of the market shares now held by the major carriers, but there is no reason to conclude at this time that the financial stability of the industry will be adversely affected. Moreover, the overall state of the economy, and the depressed housing market in particular, makes it difficult to assess what financial impact, if any, these changes have had on the household goods industry.

Fuel Surcharge

Senator Andrews. What is the status of the Commission's fuel surcharge on motor carrier shipments? Provide for the record any changes that have been made to the surcharge and what the effect these changes will have on shippers and carriers.

Response. On October 8, 1981, the Commission announced that it was replacing the revenue-based surcharge program (introduced in June 1979) with a mileage-based compensation formula. The announcement was the result of extensive review by the Commission of the fuel surcharge program and was designed to correct inequities existing in the current program. The principal inequity was that the revenue-based surcharge was not closely tied to the cost of fuel, thus resulting in overcompensation of carriers and owner-operators in some instances, and undercompensation in others.

The decision balances the needs of owner-operators for a continuing mechanism to provide reimbursement for increased fuel costs with the needs of shippers to have fuel costs equitably reflected in the rate strucure. The mileage-based compensation formula is tied to the price of fuel and will increase or decrease as the price of fuel changes. The formula is stated in cents per mile: carriers using owner-operators will be required to pay their owner-operators the applicable cents per mile figure for each mile travelled at the direction of the carriers, whether loaded or empty. Currently, the Commission's decision would provide for payment under the mileage compensation formula of 13 cents per mile.

To make payments under the formula, carriers are being permitted to fold into their rates that portion of the present surcharge needed to meet this obligation to their owner-operators. Carriers not using owner-operators are being allowed to fold into their rates the lesser of either their present surcharge or the amount needed to recover the increase in their fuel costs since January 1, 1979. This limitation was imposed to address the concerns expressed by shippers that allowing carriers to fold-in all of the present surcharge would perpetuate distortions in the rate structure. Fold-in tariffs have to be filed on 30 days notice to the public; shippers have the right to protest the amount of the fold-in.

A number of carriers sought reconsideration and stay of the Commission's October 8, 1981, decision. Those petitions were denied by the Commission. The petitioners were able to obtain a stay of the Commission's decision from the U.S. Court of Appeals for the Fifth Circuit. The stay, which was granted on November 5, 1981, was lifted on January 18, 1982. The Commission issued a notice establishing a new 60-day period for implementation of the October 8 decision. That period began on February 12, 1982, and will end on

April 13, 1982. After that date, fuel surcharge tariffs that have not been cancelled by action of the carrier will be null and void.

Still pending before the Fifth Circuit is a petition for judicial review of the Commission's decision. Briefs are now being filed with the court by the parties. A decision by the court on the petition is not expected before fall of this year.

Hotline

Senator Andrews. You recently ended your toll-free hotline for consumer complaints, requiring callers to now direct those complaints to one of your regional offices. Since this transition was enacted, have the number of calls changed significantly? Provide for the record any available data on the volume of incoming calls before and after hotline operations were terminated.

Response. The number of calls coming to Washington, D.C. has decreased since January 29, 1982, the date on which the Hotline was discontinued. As a comparison, the number of calls received at Headquarters in February and March 1981, was 19,145; whereas in February and March 1982, there were only 507.

Our system is not designed to record the number of calls received in the field either before or after the transition. However, each regional and area office has reported a significant increase since the Headquarters Hotline was discontinued.

Senator Andrews. I understand that the majority of complaints made from consumers using the toll-free hotlone involved problems with moving companies. Has this changed since the hotline was teminated?

Response. For the period February 1, 1981, through March 31, 1981, the Commission received a total of 5,563 complaints, nationwide. Of this number, 1,635, or 29 percent, related to household goods shipments. In the period February 1, 1982 through March 31, 1982, 3,928 complaints were received with 925, or 23 percent relating to household goods shipments. The number of household goods complaints, therefore, was 56.6 percent of the comparable 1981 period and their proportionate number of the overall complaints fell from 29 percent to 23 percent.

Federal Register

Senator Andrews. It was recently reported that the Commission plans to begin publishing motor carrier announcements in an ICC publication rather than in the Federal Register? Have you made any comparison of how the distribution of your agency publication conpares with that of the Federal Register. If so, provide these details for the record. How much money would this save?

Response. On December 29, 1981, the Commission sent a draft bill to House Speaker O'Neill and Senate President Bush to amend Section 10322 of Title 49, United States Code. Part (b)(3) requires Federal Register publication of applications for authority under Subchapter II of Chapter 109, 49 USC and the amendment would eliminate this requirement. This amendment is still pending and has been attached to the Bus Bill, H.R. 3663.

Cost comparisons between Federal Register publication and an in-house publication have been made. The FY 1981 publication costs of applications for authority in the Federal Register totalled $1.8 million, our estimates of 1,200 to 1,500 subscriptions to the in-house publication will cost the Commission approximately $250,000. Although we will be collecting fees for the in-house publication, they will not supplement our appropriations but will be sent to the Treasury. Savings should approximate $1.0 million. Further review of the proposed approach is currently being undertaken and other approaches to replacing the Federal Register publication are being explored.

It is our view that publication of motor carrier application filings, 70 - 80 percent of which are unopposed, can be confined to much smaller industry constituency than the 70,000 users of the Federal Register and still meet the requirement of giving public notice.

Personnel Reductions

Senator Andrews. In the Chairman's prepared statement, he referred to the need to lay off more than 130 employees in order to permit the Commission to stay within approved spending levels. When will these people be released? How much of this reduction can be achieved through attrition?

What will be the impact of these reductions on your ability to perform the Commission's statutory mandate?

Response. The projected lay-off of approximately 130 employees is the Commission's estimate of the number of involuntary separations that will occur over and above what can be accomplished through voluntary attrition. The estimating methodology used had an attrition factor built into it. Reductions-in-force will be conducted in six Bureaus and Offices between March and June 1982. The number of employees separated involuntarily may vary from the estimate depending on how much and where attrition occurs during this time frame.

The reductions in FY 1982 are planned in those areas where the workload no longer is commensurate with current staffing levels. Therefore, these reductions can be absorbed without greatly affecting the Commission's ability to perform its statutory mandate. However, forced reductions below the $69 million and 1,425 full-time permanent staff-years requested for FY 1983 would affect performance of the Commission's statutory responsibilities unless there were additional legislative changes.

Budget Justification

Senator Andrews. The Commission's fiscal year 1983 budget request totals $69.0 million. In September, the advance copy sent to this subcommittee showed a request of $79.0 million. In the time the budget was at the Office of Management and Budget, $10 million were cut. Provide for the record where these cuts were taken and what the programmatic impacts are.

Response. When the Commission first submitted its FY 1983 budget request in September, Congress had not yet finalized our FY 1982 budget. The great majority of the cuts that resulted in the $10 million reduction in our FY 1983 request were actually imposed by Congress in their approval of our final FY 1982 budget figure. Our original FY 1982 budget request of $79 million, which was contained in and the basis for our original FY 1983 budget request, was eventually trimmed to $70.15 million. The approved FY 1982 level was the basis for our revised FY 1983 budget request.

During FY 1982 and FY 1983, the Commission will absorb the majority of the cuts (approximately $8.7 million) in personnel compensation and benefits. This will be accomplished through the combination of attrition, a self-imposed hiring freeze, and reductions-in-force. Non-personnel costs will also be substantially reduced such as printing and reproduction expenses (approximately $1.15 million) and other services (approximately $1.16 million) primarily in computer and non-computer related contracts. The Commission will also take significant reductions from its original request in the areas of travel, transportation of things, supplies and materials, furniture and equipment, and leasehold improvements. Overall, the cuts taken by the Commission in FY 1982 and FY 1983 total approximately $13 million. However, these are partially offset by the exorbitant increase (approximately $3.4 million) in the rent (standard level users charge) charged by GSA for office space which takes effect in FY 1983.

During the FY 1983 budget process, the Commission carefully evaluated its program direction and emphasis and associated workload especially in relation to current budget constraints. As a result, the Commission has attempted to redistribute and realign its staff and expenses in a manner commensurate with the projected workload. Therefore, programmatically, the Commission is able to support the President's budget of $69 million and 1,425 full-time permanent staff-years for FY 1983. However, further reductions would impact the Commission's ability to perform its statutory mandate and thus necessitate further legislative change.

Mergers

Senator Andrews. In the Commission's decision in Ex Parte 282 (Sub-5), the Commission decided that virtually no protective conditions would be imposed in railroad mergers and that existing conditions were to be removed. Can we assume that a railroad merger can still be denied in its entirety on the grounds that the applicants didn't make a case, or that the protestants fully rebutted whatever case applicants made?

Response. The Commission's recent decision in Ex Parte No. 282 (Sub-No. 5), Traffic Protective Conditions, 366 I.C.C. 112 (1982) was limited in the type of protective conditions it said would not be imposed in future railroad consolidations and would be removed from past consolidations.

Specifically, the Commission found that the standard DT&I Conditions (the conditions are named after the case where they were first routinely imposed, Detroit, T. & I.R.G., 275 I.C.C. 455, 492 (1950)) were not in the public interest, but that it would consider imposing specific, narrowly focused traffic protective conditions if they met the standards set forth in Railroad Consolidation Procedures, 363 I.C.C. 784 (1981) (Merger Policy Statement). Hence, Ex Parte No. 282 (Sub-No. 5) only revoked the DT&I Conditions. These conditions were:

1. That under applicants' control, the consolidated system shall maintain and keep open all routes and channels of trade via existing junctions and gateways, unless and until otherwise authorized by us.

2. The present neutrality of handling traffic inbound and outbound by the consolidated system shall be continued so as to permit equal opportunity for service to and from all lines reaching the rails of those carriers without discrimination in the arrangement of schedules or otherwise.

3. The present traffic and operating relationships existing between the consolidated system, on the one hand, and all lines connecting with their tracks, on the other, shall be continued insofar as such matters are within the control of the applicants.

4. The consolidated system shall accept, handle, and deliver all cars inbound and outbound, loaded and empty, without discrimination in promptness or frequency of service as between cars destined to or received from competing carriers and irrespective of destination or route of movement.

5. Applicants shall not do anything to restrain or curtail the right of industries located on the consolidated system to route traffic over any or all existing routes and gateways.

6. Any party or any person having an interest in the subject matter may at any future time make application for such modification of the above conditions, or any of them, as may be required in the public interest, and jurisdiction should be retained to reopen the proceeding on our own motion for the same purpose. 366 I.C.C.

Even after Ex Parte No. 282 (Sub-No. 5), the Commission still retains, and will use where appropriate, very broad conditioning powers under 49 U.S.C. 11344(c). In the Merger Policy Statement, the Commission indicated the criteria that it would follow in improving conditions as follows:

> (d) Conditions. - The Commission has broad authority to impose conditions on consolidations including those that might be useful in ameliorating potentially anticompetitive effects of a consolidation. However, the Commission recognizes that conditions may lessen the benefits of a consolidation to both the carrier and the public. Therefore, the Commission will not normally impose conditions on a consolidation to protect a carrier unless essential services are affected and the condition: (1) is shown to be related to the impact of the consolidation; (2) is designed to enable shippers to receive adequate service; (3) would not pose unreasonable operating or other problems for the consolidated carriers; and (4) would not frustrate the ability of the consolidated carrier to obtain the anticipated public benefits. Moreover the Commission believes that indemnification is ordinarily not an appropriate remedy in consolidation proceedings. Indemnification conditions can be anticompetitive by requiring the consolidated carrier to subsidize carriers who are no longer able to compete efficiently in the marketplace.

Under these criteria, railroads may still request a number of different types of conditions, such as trackage rights, acquisition of lines, reciprocal switching, specific gateway conditions, reformation of contracts, etc.

As has always been the case, a railroad merger can be denied in its entirety on the grounds that the applicants did not make a case (i.e., did not show that the proposed consolidation is consistent with the public interest) or that the protestants have fully rebutted that case (or have affirmatively shown that the proposed consolidation is not in the public interest).

Senator Andrews. If that assumption is correct, isn't it anomalous to preclude a lesser degree of relief — i.e., short of outright denial -- in the form of a protective condition?

Response. Neither Ex Parte No. 282 (Sub-No. 5) nor the Commission's Merger Policy Statement preclude conditions where those conditions are in the public interest and tend to minimize an adverse impact of a proposed consolidation. The conditions enumerated earlier, as well as others, may still be sought by parties, and imposed by the Commission if the criteria of the Merger Policy Statement are met.

Senator Andrews. If a protestant carrier demonstrates that the condition it seeks will enhance competition, isn't that a showing which the Commission is obligated to give serious and favorable consideration to under the Staggers Rail Act?

Response. Under the Interstate Commerce Act, the Commission "shall approve and authorize a transaction ... when it finds the transaction is consistent with the public interest," 49 U.S.C. §11344(c). Competitive impact is one consideration in determining the public interest. If a transaction is shown to have an adverse impact on competition, the Commission has the authority under 49 U.S.C. §11344(c) to condition any approval of the transaction to ameliorate the anticompetitive effects. Thus, if a protestant carrier demonstrates that the condition it proposes reduces an anticompetitive impact of the proposed merger transaction, the Commission will consider it seriously.

The Commission will not, however, impose conditions which are not related to the impact of the proposed merger. There are basically two reasons for this policy.

First, any other position by the Commission would act to discourage private rail industry initiatives to rationalize the nation's rail system because no carrier considering a merger could accurately predict the exposure to conditions involved in a Commission proceeding. Such an effect would directly contradict the policies of the Railroad Revitalization and Regulatory Reform Act of the 1976 (4R Act) to encourage mergers that tend to rationalize and improve the overall quality and financial strength of the nation's rail system.

Second, if the Commission were to entertain conditions unrelated to the proposed merger transaction it would be extremely difficult, to conduct a merger proceeding within the time limits set by the 4R Act (generally 31 months for major mergers).

As indicated above, the Commission has broad authority to impose conditions and will exercise this authority where the evidence indicates such action is warranted to reduce the potentially anticompetitive effects of a proposed consolidation.

Senator Andrews. In the pending Union Pacific-Missouri Pacific case, will the Commission, in the interests of due process, now reopen the proceeding to permit the protestant railroads an opportunity to submit evidence that might yet satisfy the new rule in Ex Parte 282?

Response. Ex Parte No. 282 (Sub-No. 5) announced a general policy regarding traffic protective conditions and applied that policy to past proceedings where such conditions had been routinely imposed. However, Ex Parte No. 282 (Sub-No. 5) did not announce a new rule in this area. The same basic policy of refusing to routinely impose traffic protection conditions has been consistently followed in recent rail merger cases such as CSX Corp.-Control-Chessie and Seaboard C.L.I., 363 I.C.C. 578 (1980); Burlington Northern, Inc.-Control & Merger-St. Louis, 360 I.C.C. 784 (1980); and Norfolk Southern Corp.-Control-NW and Southern, (served March 25, 1982). The protesting carriers in the UP-MP proceeding have already had notice of the Commission's standards regarding traffic protective conditions, and an opportunity to demonstrate the need for their proposed conditions.

Senator Andrews. Will the Commission reopen the UP/MOPAC case to take evidence on the cumulative and cross-over effects of prior merger cases taking into account the new rule in Ex Parte 282 which now imposes additional impacts from those prior mergers?

Response. The hearings in the UP-MP case have ended, and the Commission is presently receiving final briefs in this matter. It is unlikely that there will be a need to reopen this case to receive evidence of any effect of the removal of standard traffic protective conditions for several reasons. The Interstate Commerce Act, 49 U.S.C. §10705(e), empowers the Commission to suspend a tariff which would cancel a through route, joint rate or classification without the consent of all carriers party to it. The carrier proposing cancellation then has the burden of showing that the proposed cancellation is in the public interest. This provision offers substantial protection to joint routes even without specific conditions. Also, under Ex Parte No. 282 (Sub-No. 5), the carriers may seek the continuation of traffic protective conditions in individual proceedings by coming before the Commission and showing that the conditions are in the public interest. At this time, it does not appear that our action in Ex Parte No. 282 (Sub-No. 5) will generate any impact which would require reopening the UP-MP proceedings. This answer is of course not intended to prejudge the evidence or arguments which may be introduced in the UP-MP case or any other proceeding.

Senator Andrews. If not, doesn't the Commission's statement of policy in railroad mergers state that it will take account in a pending case of the cumulative effects of prior decisions?

Response. The Commission's policy statement concerning rail consolidations does state that it will take into account in pending proceedings the cumulative and cross-over effects of prior proceedings. However, as discussed previously, it is unclear whether there will be any changes from Ex Parte 282 (Sub-No. 5) which would significantly affect the validity of the record in the UP-MP case.

Since the UP-MP case is presently pending before the Commission, it would not be appropriate to discuss this issue in more detail.

Senator Andrews. In the past situations, where parties have expended considerable sums in reliance on protective conditions, is it fair to remove them even if they can be shown to enhance competition?

Response. We have not made a decision that all prior protective conditions are to be removed. On the contrary, the Commission specifically delayed the effective date of its finding in Ex Parte No. 282 (Sub-No. 5) to provide the parties with an opportunity to come forward and show that a particular condition is in the public interest and should be continued.

QUESTIONS SUBMITTED BY SENATOR CHILES

Household Goods Moving Industry

Senator Chiles. The 96th Congress enacted two major pieces of legislation which changed ICC's regulation of the household goods moving industry. The Motor Carrier Act of 1980 — Public Law 96-296 — reduced ICC's controls over the trucking industry generally and the Household Goods Transportation Act of 1980 — Public Law 96-454 — was enacted to reduce unnecessary regulation and to strengthen consumer remedies and protections. As the moving industry has operated under the new legislation for one moving season, the following questions relate to the effect both Acts have had on the industry.

Last year you told the Committee that you estimated that 1.78% of interstate shipments of household goods would result in complaints to the ICC. What was the actual level of complaints? What level do you project for 1981 and 1982?

Response. During 1980, the household goods shipment complaints received were equal to 1.7 percent of estimated total number of shipments transported.

The percent figure for 1981 is not yet available as the carriers' 1981 Annual Performance Reports, which are the source of our information with respect to the number of shipments transported, were not filed until March 31, 1982. Our staff is reviewing these reports and compiling the data at the present time. However, based on continued review of the complaints processed during 1981, it is apparent that there was a dramatic decrease in the total number received and it is anticipated that the complaint frequency in relation to the total shipments transported will also be found to have decreased. The number of household goods shipments transported in 1981 was less than in 1980. The reduced demand enabled the carriers to provide an improved level of service with respect to those shipments transported and the decrease in number of complaints could be attributable, in part, to this situation.

Absent a significant improvement in the state of the economy, it is not anticipated that the number of shipments which will be transported during 1982 will increase over the volume in 1981. It is not anticipated that the number of complaints in 1982 will increase under these circumstances.

Senator Chiles. What specific monitoring programs has ICC established to develop information on the effects of deregulation and implementation of the provisions of the two Acts on the moving industry?

Response. The Household Goods Transportation Act of 1980 required that the Commission conduct a review of all operating regulations pertaining specifically to the operations of household goods carriers. The intended purpose was to bring these regulations into conformity with all other requirements of the Act.

This review was accomplished within the 270 days prescribed and revised regulations were adopted to become effective on June 9, 1981. Due to a court challenge of these regulations, they were not actually placed into effect until February 1, 1982, following a decision by the Seventh Circuit Court of Appeals which upheld the revised regulations in all respects.

For the past 60 days we have been going through a process of answering inquiries and interpreting the regulations, looking toward full implementation by all carriers prior to be beginning of the increased seasonal demand for service, which normally occurs in the latter part of April and the first part of May.

We intend to monitor the impact of the regulations and the level of compliance by the accumulation and review of data developed through the conduct of routine road checks and compliance surveys, as well as by analysis of the frequency and nature of shipper complaints. We will also review compliance of a particular regulation or group of regulations, when and where circumstances appear to warrant such attention.

The same situation exists with respect to the remaining provisions of the Household Goods Act as well as of the Motor Carrier Act of 1980, as it impacts on the moving industry. Up to this time we have not encountered nor become aware of any areas of serious adverse impact. If it becomes apparent that action is required to examine and eliminate problems in any area, we will institute specific programs to deal with the situation.

Senator Chiles. Under the price/service flexibility allowed movers in the new legislation, what changes have occured in prices? What new services have been introduced? Under the HGTA, carriers are allowed to provide estimate (firm price). How many carriers have established binding estimates? What portion of their customers were moved under this provision during the last year?

Response. Industry-wide there has been a large number of new tariff provisions published over the past six months to provide a wide variety of price and service options to the household goods shipper. Volume discounts, senior citizen discounts and discounts based on prepayment of the charges have become common. Service options, such as guaranteed pickup and delivery dates with pre-determined compensation to the shipper when service delays occur, are being offered. All of the major carriers, and many of the smaller movers, are offering a variety of liability protection options which were not available previously.

Binding estimates are now available from those carriers which, collectively, transport between 75 and 80 percent of all shipments. With the exception of one major carrier, which is holding out to transport all shipments on binding estimates, the industry has been proceeding with caution in this area and generally has not advertised or emphasized this type of estimate. During the last half of 1981, four of the five largest carriers transported 2 percent, or less, of the shipments moved for individual shippers on binding estimates. Based on interviews conducted by our staff with management officials of these carriers in recent weeks, it is believed that the marketing of household goods moving service based on binding estimates will be given emphasis during the coming busy season and that the use of this price and service option will become more widespread.

Senator Chiles. Many of the new provisions in the Acts were expected to result in greater competition. What effect have these changes had on competition?

Response. The wide variety of service and price options now being offered by the industry certainly suggests a conclusion that the industry is becoming more competitive. As indicated in other answers, for the past six months carriers have been involved in experimentation and familiarization with new opportunities. As the industry moves into the 1982 moving season, the level of competition is expected to increase dramatically as the carriers seek to retain and expand their market shares in what has developed to be a buyer's market.

Senator Chiles. Have the changes affected the financial stability of the household goods industry?

Response. The rules and procedures implementing the Household Goods Transportation Act became effective on February 1, 1982. At present it is too early to make a determination of the Act's effects on the financial stability of the carriers.

Senator Chiles. In earnings data on the largest 15 moving companies, ICC has reported that operating revenues rose 7.6 percent to almost $1.6 billion despite a 4 percent decline in revenue tons hauled (comparing the 12-month period ending September 30, 1981, with the same period ending in 1980). Do increased revenues based on decreased volume equate to consumers paying too much?

Response. We do not believe that these statistics imply that the rate/charge structure of the industry is excessive. During the period in question, operating expenses increased by 7.1 percent. Thus, only a small portion of the carriers experienced revenue gain passed down to profits. In their most recent general rate increase filing, the industry filed evidence showing that the carriers, agents, and owner-operators would earn a return on equity of 14.5 percent under the rate increase sought, a return just under the 14.6 percent return on equity earned by industry in general for the 12 months ended September 30, 1981. A return level of this magnitude does not appear to us to be excessive nor indicative of an unduly inflated price structure for the services rendered.

Senator Chiles. ICC has reported that the average revenue per ton for the household goods industry has been increasing; that is revenue tons were $388 for 1979, $457 for 1980, and $553 for the first 6 months of 1981. This represents a 42.5 percent increase between 1979 and 1981. Why are the prices charged to shippers growing at such a substantial rate?

Response. The prices charged to shippers throughout the 1979 to mid-1981 period have increased in direct proportion to the expenses associated with the shipments. Listed below is data on expenses per ton hauled.

Expenses Per Ton Hauled
15 Largest HHG Carriers
(1979 - 1st 6 months of 1981)

Year	Expense Per Ton Hauled	Percent Change 1979-1981
1979	$399	
1980	478	+36.34%
1st 6 months 1981	544	

While expenses per ton hauled increased about 36 percent over the 1979 to mid-1981 period, revenues have increased by a slightly smaller amount. Listed below is data on revenues per ton hauled, compiled from our publicly released quarterly earnings reports on the 15 largest household goods carriers.

Revenue Per Ton Hauled
15 Largest HHG Carriers
(1979 - 1st 6 months of 1981)

Year	Revenue Per Ton Hauled	Percent Change 1979-1981
1979	$405	
1980	490	+36.05%
1st 6 months 1981	551	

Senator Chiles. The Committees that drafted the HGTA were concerned about the poor financial condition of the household goods industry and noted that the industry had a poor operating ratio (ratio of operating expenses to operating revenues). Has the operating ratio for the industry improved?

Response. The Commission was under a court stay until December 1981, not to implement procedures allowed by the Household Goods Transportation Act of 1980. The Commission implemented these procedures February 1, 1982. Accordingly, there has been very little time lapse since implementation to determine the impact of the procedures on financial performance. For the twelve months ending September 30, 1981 and 1980, the operating ratic for the 15 largest HHG Industry carriers was 97.3 percent and 97.7 percent, respectively.

Senator Chiles. ICC has reported that the operating ratio has improved, declining to 97.3 percent from 97.7 percent (for 12-month period ending September 30, 1981, compared to same period for 1980). Does ICC consider operating ratio a valid or good barometer of the industry's financial condition? Would other comparison such as rate-of-return on shareholders' equity be more valid?

Response. The Commission uses several financial indicators to evaluate the financial performance and condition of the household goods carriers. No one financial measure is used to the exclusion of other financial ratios. This agency issues, on a quarterly basis, an earnings report for the fifteen largest movers which includes both operating ratio (OR) and return on equity (ROE). In general rate increase proceedings, the Commission typically uses OR, ROE, and return on investment (ROI) yardsticks to evaluate the revenue needs of the household goods carriers. In the past several general increase proceedings, ROE has been accorded the greatest weight among these ratios since ROE is used as a standard for the motor carriers of general freight. All three ratios, OR, ROE, and ROI, have their limitations. ROE and ROI are not especially good measures to measure the profitability of the movers themselves because a good part of the investment in rolling stock and warehouses used by these carriers are owned by their agents and owner-operators. These two return ratios take on more meaning when they are used to measure the profitability of the movers, agents, and owner-operators on a consolidated basis.

The operating ratio is an excellent measure of efficiency, but is of limited value in measuring the earning power of investment in rolling stock and storage facilities. Following is more detailed information on the operating ratio.

The operating ratio, alone, can be quite misleading and produce erroneous conclusions relative to the measurement of any one carrier's or group of carriers' revenue needs. Take, for example, two carriers with identical revenues and operating ratios, but grossly different investments in carrier operating property.

	Carrier A	Carrier B
Revenue	$1,000,000	$1,000,000
Expenses	930,000	930,000
Operating Income	$ 70,000	$ 70,000
Operating Ratio	93%	93%
Net Investment in Property	$ 700,000	$ 200,000
Rate of Return	10%	35%
Turnover Ratio (Revenue ÷ Property Investment)	1.43	5.00

As this hypothetical case illustrates, identical operating ratios for different companies can produce vastly different results, depending upon factors other than the simple mathematical relationships of operating expenses to operating revenue. In this example, the only other factor considered (and there are many more than this one) was the carrier's investment in transportation property. Compared to Carrier "A", Carrier "B" shows in this illustration a relatively small investment in property. This small investment, however, produced as many sales dollars (revenue) as Carrier "A" was able to generate. Thus, because of a much higher asset turnover (5 times for "B", only 1.4 times for "A"), Carrier "B" earns a very high rate of return of 35 percent on its investment relative to a modest 10 percent earned on Carrier A's investment. In recent general increase proceedings involving the motor carriers of general freight, several of the rate bureaus have furnished evidence showing a need for a 23-percent rate of return. Against this standard, Carrier A, with an operating ratio of 93 percent, would not be earning enough profit and Carrier B, with the same operating ratio, would be earning a return well in excess of its needs. The point here is that any meaningful effort to determine the revenue needs of the carriers must encompass factors and considerations other than the operating ratio alone.

Return on equity and return on investment are also considered. Of these two ratios, return on equity is given the most weight because a standard for the ratio has been developed for the motor carriers of general freight, notably a return on equity equal to that earned by all manufacturers, mining, retailing, and wholesaling. For lack of a separate standard for the household goods carriers, it is felt that this return on equity standard is appropriate for both the household goods and general freight carriers.

Senator Chiles. Section 11711 of the HGTA provides that motor carriers of household goods may establish procedures for resolving claims in dispute rather than using the court system. How many carriers have submitted dispute resolution programs for ICC's approval? How many carriers have approved programs? How many claims have been settled using such programs?

Response. Pursuant to Section 11711 of the HGTA, two organizations representing carriers have submitted dispute settlement programs. The program submitted by the American Movers Conference was approved by the Commission on July 30, 1981, and the program submitted by the Movers and Warehousemen's Association was approved by the Commission on October 7, 1981.

Up to now, 61 carriers are participating members under one of the two approved programs.

The option of arbitration is not available until the end of the 120-day claims processing period allowed the carrier under the claims' processing regulation. Since the implementation of both programs became effective February 1, 1982, no claims have been submitted for arbitration.

Increased Emphasis on Enforcement

Senator Chiles. The Commission has spoken of the need to increase its enforcement activities to help protect the public interest in instances where the dynamics of the marketplace are insufficient to preclude or remedy abuses. Is the Commission spending increased attention through enforcement efforts to limit the entry of truckers who may be shipping without ICC authorization? If yes, how much effort is being spent on this program? How effective is it? While the Commission claims to be increasing its enforcement activities, the personnel level (p. 7) is 172 in 1982 and 172 in 1983? How do you explain this apparent discrepancy?

Response. There is an increased effort to curtail unauthorized transportation. One phase of the effort involves increased compliance monitoring of carriers. Where non-compliance is discovered, the staff attempts to resolve the matter informally with the particular carrier involved, to bring about voluntary compliance. However, in an industry that exceeds 29,000 regulated carriers, and many more non-regulated carriers, the potential for flagrant abuse, notwithstanding the informal handling efforts, is substantial. Violations of this nature exacerbate when the unauthorized transportation is performed in unsafe vehicles operated with inadequate liability and cargo insurance. Enforcement is frequently required in these types of situations.

It is difficult to state precisely how much enforcement attention will be devoted to this problem. Enforcement is generally a reactive action, taken when serious non-compliance practices develop during the year. As a general comment, however, it is expected that approximately 22 staff years of enforcement resources will be devoted to unauthorized transportation.

Enforcement is an effective means of controlling unauthorized transportation. Over the past several years, the Commission's unauthorized transportation compliance monitoring and enforcement efforts were very modest. During the same period, unauthorized transportation increased at an alarming rate with the violators displaying a defiant attitude toward the federal licensing requirement. This condition did not prevail when the Commission's enforcement profile was much more visible. The increased concentration now directed in this area is intended to overcome the more recent problems by first, penalizing the violators and ending the violations in the cases prosecuted and secondly, through this process, letting all other would-be violators know that enforcement is a distinct possibility.

Regarding the enforcement personnel levels, it would be a discrepancy if the increase was intended to compare the FY 1982 level against the FY 1983 level. However, the figures are really intended to show the increase between the 139 staff-years in FY 1981 and 172 staff-years for both FY 1982 and FY 1983. As is discussed in the budget (see page 75), the stronger enforcement effort in FY 1982 and 1983 is possible through a redistribution of the staff engaged in other activities.

Truck Entry Standards

Senator Chiles. The standard for entry in the trucking industry was changed by the Motor Carrier Act of 1980 to "useful public need" from "public convenience and necessity." ICC is now attempting to change the criteria again to "fit, willing and able."

What specifically is the objection to the "useful public need" criteria? What implications would the new criteria have for deregulation?

Response. For the following reasons, the Commission has concluded that an entry standard, based on public need, is no longer useful:

(1) The marketplace — not the Federal government — can best determine if a service is needed;

(2) Today, almost all applicants can obtain the necessary support to show a public need. Thus, the public need test is no longer a true test — but merely a burden that must be overcome by an applicant in order to receive authority; and

(3) In view of recent broad grants of authority as well as budgetary constraints, it is highly unlikely that the "traditional" common carrier obligation (requiring service in accordance with a certificate) can be enforced. Accordingly, it makes little sense to mandate issuance of certificates framed in terms of supporting evidence of record. Balancing the burden on carriers, shippers and the Commission in light of the limited usefulness of the "public need" test, we have concluded that the test should be eliminated.

In lieu of maintaining an evidentiary requirement that public need be demonstrated on the record, the Commission believes the public interest would be better served by a precise fit, willing, and able test which would ensure that the public is protected from unscrupulous or unfit carriers. We believe adoption of such a proposal would be another step toward deregulation. In order to insure that the fitness test is not a barrier to entry, the Commission has encouraged Congress to specifically express its intent that the fitness standard is not to be burdensome, but merely a test to protect the public from harm.

Truck Lengths and Widths

Senator Chiles. What position has the Administration and ICC taken on S.1402, legislation that would provide for uniform truck lengths and widths?

Response. The Commission was not asked to testify on S. 1402 and has taken no position on this legislation. To the best of our knowledge, the Administration has not at this time taken a position on the legislation.

Bus Regulatory Reform

Senator Chiles. As you know, H.R. 3663 which passed the House on November 19, 1981 would ease entry for carriers, relax rate controls and permit preemption of state regulations. What position has ICC taken on this legislation?

Response. The Commission strongly supports enactment of bus legislation. We believe that H.R. 3663 represents a good start in reforming regulation of the bus industry and in providing a greatly needed impetus towards more competition in the industry. However, in our testimony before the Surface Transportation Subcommittee of the Senate Committee on Commerce, Science and Transporation, we suggested a number of changes in the legislation. The Commission's major recommendations called for: (1) a "fitness only" standard for entry; (2) a broadening of the zone of rate flexibility at the end of three years; and (3) termination of antitrust immunity for collective ratemaking. In addition, we suggested broadening of the "securities" provision in the bill to eliminate ICC jurisdiction over issuance of securities by motor carriers as well as motor carriers of passengers.

The Commission is continuing to work with Congress, the Administration and other concerned parties to facilitate enactment of sound and balanced bus legislation.

Senator Chiles. As you know, Florida has totally deregulated the intrastate bus and truck industries. What impact would H.R. 3663 have on the situation in Florida particularly as it relates to the authority to preempt state regulations?

Response. Since Florida has deregulated intrastate transportation by motor carriers of the passengers, the provisions of H.R. 3663 which would permit the ICC to preempt certain State actions should have no impact on the situation in Florida. H.R. 3663 provides for Federal preemption only in instances where the State had denied or failed to act upon a carrier's request within a specified time. The preemption provisions are intended to provide relief where State regulation constitutes a burden on interstate commerce. Thus, they would not be applicable to states such as Florida which do not regulate intrastate transportation.

With respect to the overall impact of the legislation, we would expect that H.R. 3663 would have a favorable impact on Florida and other states by creating a more competitive interstate motor bus industry in which carriers would be allowed greater freedom to experiment and flexibility to price their services, taking into account factors such as competition, cost increases and market demand for price/quality of service options.

Impact of Deregulation in Florida

Senator Chiles. Please provide the Committee with an update on the impact of truck and bus deregulation in Florida. What has been the impact on services and prices?

Response. In addition to the information provided in the record regarding truck freight service, the following information is available regarding bus service in Florida.

> ICC and DOT studies in Florida where the motor carrier industry was deregulated, effective July 1, 1980, show that charter bus competition rose substantially, providing price reductions and an increased number of service options. A restructuring of regular bus routes took place; some small communities with little ridership lost service and other towns gained service. In some cases, service by large buses has been replaced by service by vans which typically carry 12 or 15 persons. With lower overhead and different profit requirements, small van operators can sometimes profitably serve communities with a low demand for bus service, by providing a combination of fares and service quality that is tailored to the demand and needs of the community. Analyses indicate that where bus service has not been replaced, a degree of passenger inconvenience rather than hardship has resulted, because regular route service is generally available within 9 to 11 miles from the location of discontinued service.

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

STATEMENT OF RAYMOND A. PECK, JR., ADMINISTRATOR

ACCOMPANIED BY:
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- DR. CARL E. NASH, DEPUTY ASSOCIATE ADMINISTRATOR FOR RULEMAKING
- LYNN BRADFORD, ASSOCIATE ADMINISTRATOR FOR ENFORCEMENT
- CHARLES LIVINGSTON, ASSOCIATE ADMINISTRATOR FOR TRAFFIC SAFETY PROGRAMS
- MICHAEL FINKELSTEIN, ASSOCIATE ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT
- BARRY FELRICE, ASSOCIATE ADMINISTRATOR FOR PLANS AND PROGRAMS
- DANA L. SCOTT, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION
- FRANK BERNDT, CHIEF COUNSEL

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The next witness will be Ray Peck, National Highway Traffic Safety Administrator. Will you bring your people up?

We will be in order. Mr. Peck, welcome to the subcommittee session. If you would introduce your colleagues and you could summarize your statement for the record, we can get on with the questions.

INTRODUCTION OF ASSOCIATES

Mr. PECK. Mr. Chairman, thank you very much. To my immediate right is Diane Steed, Deputy Administrator, who had the pleasure of testifying before the committee last year on this occasion. To my immediate left is Mr. Dana Scott, who is the Associate Administrator for Administration. On his left Mr. Lynn Bradford, who is our Associate Administrator for Enforcement.

On Ms. Steed's right is Mr. Charles Livingston, who is our Associate Administrator for Traffic Safety programs. On Mr. Livingston's right is Mr. Michael Finkelstein, who is the Associate Administrator for Research and Development. In the first row, and I will just describe him as being vaguely to Mr. Bradford's left, is the Associate Administrator for Plans and Programs, Mr. Barry Felrice.

OPENING REMARKS

I want to thank you for the opportunity to continue our discussions with the subcommittee. Our 1983 budget request continues our own emphasis on improving the ways in which we achieve our mission objectives through reform of our program and our management.

It supports additional safety improvements through redirection of State safety grants, enhanced cooperation with the private sector, including the academic community, and State and other governments, and increased safety awareness by the driving public.

Our overall goal in the area of improving the efficiency and success of our program activity is to insure that our resources are directed at those activities which have the most realistic prospect of success and which will result in the maximum safety gain.

Our assessment of our management and program priorities to determine the best way to achieve this goal is continuing. I think if I were to summarize in just a few words the emphasis which I would like to place today on our achievements of the past year is enhanced management, enhanced and improved efficiency within the agency, and enhanced recognition of the role of highway-related and driver-occupant-related activities to help reduce the appalling toll that we suffer daily on our Nation's highways.

Specifically, we have undertaken joint research with the automobile industry. We have undertaken to open the decisionmaking process of the agency, and we have undertaken to open to the States to an unprecedented degree the grant program represented by section 402 of the Highway Safety Act.

In brief overview, we are requesting for fiscal 1983 a total program level of $160.1 million. This includes $81.6 million for Operations and Research and $78.5 million for the State and Community Highway Safety Grant program. The comparable funding levels for these programs in 1982 totaled $172.4 million—$74.9 million for Operations and Research and $97.5 million for the Grant program.

The overall decrease of $12.3 million is related to a reduction in activities funded under the Grant program, offset in part by a small increase in the Operations and Research appropriation.

Mr. Chairman, we have submitted a detailed statement for the record, and although at least once so far today I have regretted doing this, I would like to proceed immediately to the questions.

[The statement follows:]

STATEMENT OF RAYMOND A. PECK, JR.

This is my first appearance before this Committee, and I welcome the opportunity to present and explain our fiscal year 1983 budget request.

Accompanying me here today are Diane Steed, the Deputy Administrator, and Associate Administrators: Lynn Bradford, Enforcement; Charles Livingston, Highway Safety Programs; Michael Finkelstein, Research and Development; Barry Felrice, Plans and Programs; Dana Scott, Administration and Frank Berndt, our Chief Counsel. Our Associate Administrator for Rulemaking Courtney Price, is on travel.

- PROGRAM EMPHASIS -

Our 1983 budget request continues our emphasis on improving the ways in which we achieve our mission objectives through reform of our program and management. It supports additional safety improvements through redirection of State safety grants, enhanced cooperation with the private sector in vehicle research,① and increased safety awareness by the driving public. I will briefly highlight our activities in these areas.

Our overall goal in the area of improving the efficiency and success of our program activity is to assure that our resources are directed at activities which have the most realistic prospect of success, and which will result in the maximum safety gain. Our assessment of management and program priorities to determine the best way to achieve this goal is continuing. We are paying more careful and detailed attention to the extensive data now being collected by the agency and the States, in some cases for the first time, to measure our progress in identifying and addressing significant safety problems. In addition, we are emphasizing the achievement of a proper balance between our vehicle and highway safety activities. As is the case in many other areas of federal activity, for too long our agency has tended to concentrate on the hardware of progress, on high technology solutions, on search for the always elusive quick, effective answer. For example, in the past we have tended to emphasize vehicle design solutions, in some cases to the pointed exclusion of other available, and promising but far less dramatic approaches. There have been striking successes in this type of approach, but the more important fact is that all were costly and many failed. Neither the economic needs of today nor the pressing urgency of our highway deaths and injuries allow us to continue without important careful review of each step.

Our current, greatly increased emphasis on the highway safety side of our mandates, including safety belts, is a prime example of our re-emphasis on areas which we have failed adequately to address in the past, to the possible detriment of hundreds of lives needlessly lost each year.

In the area of vehicle safety, we are continuing the intensive review of existing federal motor vehicle safety standards to assure that they effectively and efficiently address today's most critical questions of vehicle safety. We are nearing completion of our first detailed regulatory reform efforts, and NHTSA's regulatory actions taken so far may potentially save consumers several billion dollars annually without compromise of important safety goals.

At the same time, however, experience has shown that mandating performance is not the only or most efficient way to improve vehicles. Actual implementation of vehicle safety improvements otherwise than through direct regulation will remain a top priority for NHTSA. Our internal R&D priority review concluded that the best, fastest and surest way to encourage actual implementation of new safety technology is through production-oriented safety research. We have decided to continue the R&D approach begun by the previous administration along these lines. With this in mind, however, NHTSA has also initiated a program to encourage increased government/industry research cooperation, and to develop cooperative safety research programs with the vehicle manufacturers. This program is aimed at more efficient use of R&D resources, and ultimately at the incorporation of safety improvements in production of motor vehicles at a far faster rate than has ever been possible through regulation alone. Early targets for this effort would appear to be side impact protection and improved safety of steering columns.

- MANAGEMENT EMPHASIS -

When I assumed this position last year, I discovered that in several important respects the top level management of the agency had failed to reflect an orderly, systematic approach to problem identification and resource allocation. Nearly a year ago, I directed our offices to undertake full planning reviews of several different aspects of our internal decisionmaking processes. I specifically wanted to address how we allocate resources within the agency and how such allocation related to our setting of management objectives.

I was especially interested in four aspects of this management review: how we identify both research and development and rulemaking priorities, how we allocate agency resources in the quasi-judicial areas such as enforcement and responses to petitions, and how we fulfill our consumer related responsibilities.

Three of these efforts have already produced tangible results. First, with respect to R&D priorities, on February 24, 1982, agency professionals presented six technical papers on R&D priorities at the Society of Automotive Engineer's annual convention in Detroit. To an extraordinary degree, the reaction of commenters from this country and abroad, from academic, governmental and industry sectors, has been overwhelmingly positive to the opening of such a dialogue on decisionmaking processes to reviews by all interested parties. I would like to submit copies of these papers for the record.

With respect to our quasi-judicial functions, I am also pleased to be able to report major progress. Motor vehicle manufacturers recalled 9.4 million vehicles in 1981. This total is almost double the five million recalled in 1980 and represents the fourth largest number of vehicles recalled since 1966. The motor vehicle industry voluntarily initiated recall campaigns affecting more than 75 percent of the recalled vehicles, while NHTSA actions or investigations influenced the recall of an estimated 2.2 million vehicles.

In addition, last week I signed an internal NHTSA order creating an entirely new process for the hardling of petitions to the agency from the public. One of my earliest discoveries was that our response to such petitions was time consuming, often delayed unnecessarily, and subject to no internal deadlines and controls. It seemed to me that this was especially unacceptable.

As the agency develops its own planning priorities, the world we regulate proceeds as before. Problems may or may not exist, as we proceed to determine which is the case. But a petition to the agency represents in every instance a discrete, identified problem, coming either as a result of, or arguably requiring, regulatory action on our part.

There is, in my judgment, little if any excuse for an agency not proceeding to respond to such cases in an orderly, timely and efficient way. The new Order imposes strict internal deadlines for agency action, which will in all cases begin with a classification of the petition according to the gravity and complexity of the issues presented. I enclose a copy of this Order for the record.

Finally, another major emphasis of our new program is on providing more and better automobile information to consumers. On February 10, 1982, NHTSA conducted its first crash test ever to be opened to the public, and simultaneously announced what we believe to be the most comprehensive and at the same time cost-effective program of consumer information ever attempted by a Federal agency. It is based not only upon the pattern of requests and preferences expressed to us directly by the public, but upon our studies as to what information, in what form and in what detail is the most necessary, meaningful and desirable to help create an informed automotive consumer and an efficient marketplace in which economic competition based on safety can become a reality.

The issue of enhanced competition based on safety is a constant subject for NHTSA's attention. NHTSA must determine the best method for fulfilling its statutory and economic mandate to collect and disseminate information on automobile safety features and safety performance. Our main objective is an informed public, who will be able to know how to achieve greater protection through informed purchasing decisions. I enclose a copy of the Agency's public information release on this new effort for the record. Your recent agreement with our proposed reprogramming of funds for the Safety Belt Usage Program will significantly enhance this effort. In addition, we will focus on educating the public and assisting States and communities to accelerate action to get drunk drivers off the road.

Recently, we announced an expansion of NHTSA's toll-free Auto Hotline telephone and teletype service (for the hearing impaired) which serves the continental United States, Puerto Rico and the Virgin Islands. This service has provided callers with the opportunity to obtain safety-related recall information on motor vehicles, vehicle equipment and tires. In 1981, over 75,000 calls were received requesting recall information. In February 1982, we expanded the Hotline to enable us to supply consumers with more and better information on automobiles, including crash data, tire information and bibliographies of automotive articles. The first several weeks of this expansion increased the Hotline activity from approximately 500 calls a day to approximate 800 calls a day, and this has all been done this fiscal year within existing employment ceilings.

These areas, which are in the forefront of our activities, are those which will receive priority in the distribution of resources. They are the areas of highest safety payoff and greatest need.

- HIGHWAY SAFETY DATA -

Preliminary estimates for 1981 indicate nearly a four percent reduction in traffic fatalities when compared to 1980 figures. The National Center for Statistics and Analysis (NCSA) recorded 51,091 traffic deaths in 1980 and estimate a total of 49,125 for 1981.

The drop in fatalities between 1980 and 1981 cannot be explained by any one factor. One of our research priorities will be to better analyze the accident information we gather. Historically, traffic fatalities have decreased during periods of economic decline, due to changes in the driving patterns of the American public. These driving patterns - termed exposure - have dramatic effects on fatalities.

We know that on a vehicle mileage basis, the fatality rate (i.e., fatalities per vehicle mile is much higher on rural roads as compared to urban roads. Thus, even though total vehicle mileage driven on all classes of roadway in any given time period may increase, the distribution of travel by roadway class can result in actual reduction in absolute numbers and overall rates of fatalities, if such mileage increases occur disproportionately on safer roadways. While the agency, in cooperation with the Federal Highway Administration, is developing better estimates of exposure, we have not reached the point where enough is known to pinpoint the reasons for the decline in fatalities such as that occurring between 1980 and 1981.

We intend to use the data products of our efforts in the management priority setting efforts I have already described. Such data will in large part influence the research and regulatory priorities of the agency - something which has never before been undertaken. To pick one example, analysis of light truck data reveals the following:

- Light truck fatalities have increased by 50 percent since 1975, an increase which can only partially be explained by the increased number of light truck vehicles and travel.
- Texas and California account for more than 22 percent of all light truck occupant deaths, but less than 18 percent of the registrations. Texas, in particular, accounts for 11.5 percent of such deaths but only 6.3 percent of registrations and an estimated 9.3 percent of travel.
- Sixty percent of light truck occupant fatalities occur on 55 mph posted roadways compared to 49 percent for passenger cars.

- Rollover and ejection is a much more significant hazard for light truck occupants, being a factor in 51 percent of light truck fatal accidents versus 35 percent for passenger cars.
- A driver profile shows that young drivers (under age 25) - as with all vehicle types - are greatly overrepresented in light truck fatal accidents. Of growing concern, however, is that in the past 2 years, light truck-pedestrian deaths have increased 18 percent, with such accidents involving young drivers increasing by 27 percent.

These are just some examples of what our accident data analysis reveals in the light truck area. But they exemplify the kinds of systematic approach to data facts which we intend to use in developing agency priorities.

Our budget for FY 83 includes a request to increase the collection and analysis of data on driving patterns so that we can better understand the fatality and injury environment, thus enabling us to focus on agency priorities.

This year, for the first time in this agency's history, we are able to cite accident data from a scientifically selected sample of our nation's reported accidents. I refer to the National Accident Sampling System (NASS), which although not fully implemented, is able to provide, in selected instances, objective measures of traffic accidents. For example, we have observed:

- approximately 6.7 million traffic accidents are reported annually to police, of which 2.4 million are injury accidents and 44,000 are fatal accidents,
- approximately 10 percent of the fatal accidents involve multiple fatalities bringing the total number of fatally injured persons to 49,125.
- approximately 20 percent, or 3.5 million, of the accidents involved persons who were injured, including 49,100 fatally injured persons, 420,000 hospitalized survivors and 1.2 million persons treated and released at emergency rooms,

- only about 12 percent of the drivers and passengers involved in an accident used their available seat belts and only 9 percent of children under the age of 5 years were restrained by seat belts or child safety seats,
- alcohol involvement was reported in 44 percent of the fatal accidents and 34 percent of the serious injury accidents,
- over 1 in 50 of the motorcyclists and 1 in 20 of the pedestrians involved in reported accidents are fatally injured,
- accidents which occur off the roadway, though only one-fourth as frequent as those on the roadway, result in serious or fatal injury 12 times more often than those on the roadway.

These are but a small selection of the observations we note in our recent NASS Annual Report. What is more important is that we are beginning to benefit from a national file of such data. NASS has greatly improved our ability to observe and quantify the losses due to motor vehicle accidents. When the NASS system is completed, its capabilities will include the opportunity to study trends, as well as identify specific problem areas. This, in turn, will enhance our development of countermeasure programs to improve highway safety through more realistic modeling of the true national accident experience.

-COST OF REGULATION-

A most important aim of regulatory reform, as viewed by both the Congress and the Administration, is the elimination of unnecessary regulatory and administrative costs. Last year, we discussed our plans to review all pending and proposed motor vehicle safety and fuel economy regulations to determine if any appropriate modifications could be made to meet this objective. In undertaking this review, our primary concern with respect to safety regulations has been, and always will be, to concentrate on requirements which directly reduce the threat to human life and debilitating injuries and to weigh carefully the costs associated with these regulations to see that they do not transcend any realistic gain in motor vehicle safety benefits.

As you know, on April 6, 1981, based on the findings of our initial review, we published a Notice of Intent proposing 17 rulemaking actions which appeared to meet these criteria. Since then, we have completed a comprehensive review of additional data and information submitted to the docket and have completed these rulemaking actions. The remaining proposals are still undergoing a thorough review based on the rulemaking proceedings.

I would like to add that, while evaluating the relative costs and benefits of individual standards has been our primary concern, we have also looked in the past year into the overall cost of regulated safety features. We have compiled a preliminary report on the cost of automobile safety regulations which details the agency's cost estimates including other types of costs that result from regulation, such as fuel consumption due to the added weight of safety features.

In this report, we have examined data supplied by industry to the Bureau of Labor Statistics (BLS) as well as data from the agency's own studies to determine the actual cost of specific standards. Based on these data, we estimate that changes made since 1968 to meet Federal safety standards cumulatively comprise about $350 or roughly 4 percent of the price of a typical 1981 model year passenger car. Moreover, the additional weight of these safety features adds over $100 in fuel expenditure during the life of an average vehicle. When the entire vehicle fleet has been equipped with these features, nearly 30 million barrels of oil will be consumed annually as a result of safety regulations.

The high costs, both to individuals and to society in general, of vehicle related regulatory requirements indicate the need to assess additional methods of achieving motor vehicle safety. By comparing regulatory solutions to the potential effects of human factor elements such as seat belt usage and drunk driving laws, we can decide how best to address the Nation's highway safety problems. I enclose a copy of the Report for the record.

- EXTERNAL IMPACT OF NHTSA PROGRAMS -

Funds allocated to the States under the State and Community Grant Program represent a very small percent of total State expenditures for Highway Safety. Since its inception in 1966, the program has been intended to channel State spending into the right kind of highway safety programs. We believe it has clearly influenced the growth we have seen in the quantity and quality of highway safety programs initiated by the States; catalyzed States' efforts in dealing with priority safety problems; and influenced State and local funding for safety programs.

Our funding proposals for the State and Community Grant programs reflect two related concerns: our desire that the budgetary constraints, mandated at all levels by this Nation's serious economic conditions, be accommodated in orderly fashion, and our concern that such accommodations be made with the least possible adverse impact on safety. To minimize the effects of such limitations, the agency made serious and determined efforts throughout 1981 to identify and focus available funding on what we believed to be the highest payoff areas: alcohol countermeasures, police traffic services, emergency medical services and traffic records.

Further refinement of these judgments was clearly needed, in consultation with the States and the Congress, to find the most effective funding and program management process. These concerns were reflected in our dealings with the States, and in the enactment by the Congress of the Omnibus Budget Reconciliation Act of 1981. The rulemaking process, to identify priority areas and create an ongoing process to continue this result as required by the Act, is underway. Two public hearings were held last fall on an Advance Notice of Proposed Rulemaking in Washington D.C. and Hershey, Pennsylvania. Based on these hearings and on extensive internal review, involving eighteen important major studies, our Notice of Proposed Rulemaking was issued on February 2, 1982. Public hearings on this Notice have been conducted in Washington, D.C., Chicago, and San Francisco. A final rule will be issued no later than April 1, 1982.

At this point, five program areas have been identified as being most effective in reducing deaths and injuries: the four just mentioned plus occupant protection; that is, the use of safety belts and child seats. Statistics show that, if such safety belts are used, half of all deaths and injuries to occupants of passenger cars, light trucks and vans could be prevented.

I have attached to my prepared statement a brief list of recent accomplishments of Section 402 funded projects.

A direct relationship between funding level or funding emphasis and actual impact on highway casualties is exceptionally difficult to establish in the aggregate. There are, however, signs of positive programs. Local alcohol countermeasure programs are having a very positive effect in reducing both alcohol-involved crashes and the number of drinking drivers who, once they have been counseled and retrained, drink and drive again. On the local and State levels, we see groups of concerned citizens organizing to demand State action, such as legislation to raise the minimum age at which young people can buy alcohol or imposing mandatory sentences on repeat offenders. We believe the Section 402 program can further improve highway safety by continuing to encourage and support State and local efforts along these lines.

The Notice of Proposed Rulemaking also includes two proposed funding methods. One approach would limit funding to the national priority program areas with other programs to be funded solely by the States. The second alternative would involve a two-tier approach whereby projects within the national priorities would be approved with a minimal Federal review, with other programs receiving a more detailed review by either the State itself, at its election, or the Federal Government.

We are very pleased with the good cooperation and input we have received from States and Congressional Committees. We have received over 650 comments and 130 statements on this program in the course of our five hearings.

- BUDGET OVERVIEW -

For 1983, we are requesting a total program level of $160.1 million, which includes $81.6 million for the Operations and Research Appropriation and $78.5 million for the State and Community Highway Safety Grant Program. Comparable funding levels for these programs in 1982 totaled $172.4 million ($74.9 million for Operations and Research and $97.5 million for the Grant Program). The overall decrease of $12.3 million is related to a reduction in activities funded under the grant program offset, in part, by a small increase in the Operations and Research Appropriation.

- OPERATIONS AND RESEARCH -

In 1983, we are seeking $81.6 million for this appropriation. This represents an increase of $6.7 million over the final 1982 appropriation of $74.9 million. The additional funds requested include $1.5 million for mandatory increases attributable to within grade promotions, annualization of 1982 pay raises, and inflationary administrative costs, such as rent. The balance of $5.2 million includes contract program increases of $7 million, which are partially offset by reductions of $1.8 million in staff year requirements.

The major portion of the contract program increase, or $4.1 million is for Research and Analysis. These funds are needed to provide full operational funding for 52 National Accident Sampling System (NASS) sites, and to advance efforts in the area of passenger vehicle research.

For Enforcement Programs, additional funds of $1.5 million are needed principally to increase the level of compliance testing as many new car lines with design changes are being introduced, particularily small cars with front wheel drive.

Other increases amounting to $1.4 million are required under Highway Safety Programs to intensify the level of effort for NHTSA's priority programs designed to decrease the incidence of drunk driving, and increase the use of safety belts and child safety seats; and under Rulemaking, to improve the quality of regulatory analyses.

-STATE AND COMMUNITY HIGHWAY SAFETY-

For this program we are seeking total funds of $78.5 million in 1983. This consists of $77 million for Entitlement (Section 402) Grants, and $1.5 million for School Bus Driver Training. This reflects a decrease of $19 million below the 1982 level of $97.5 million for these programs.

The reduced grant level in 1983 will continue the Federal role in highway safety where it is appropriate and has proven to be the most effective. We anticipate that the States will continue to concentrate a significant portion of their grant funds into previously identified areas of potential high safety payoff, namely: police traffic services, alcohol countermeasures, emergency medical services, and collection and analysis of traffic accident data. Current expectations are that a substantial portion of grant funds will also be allocated for occupant protection or the promotion of safety belt usage. Eligibility for Federal financial assistance will, of course, be established by the previously mentioned rulemaking process.

This concludes my statement, Mr. Chairman. I will be pleased to answer questions that you or the Committee members have on the budget request.

EXHIBIT

RECENT ACHIEVEMENTS OF THE STATE AND COMMUNITY HIGHWAY SAFETY GRANT PROGRAM

- The Arkansas Alcohol Education Treatment Program used 402 funds to help the State establish a Statewide driving while intoxicated (DWI) education and treatment system -- a system now supported through client fees.
- The Iowa Alcohol Statewide Countermeasures Program reduced fatal crashes at test sites by 34 percent in the first year and 8 percent more in the second year.

- The Michigan/Ottawa County Emergency Medical Service (EMS) Project used 402 funds to provide police ambulance response times of four and one-half minutes, compared to eight minutes by private ambulances. The county is continuing this project with its own funds.
- The D.C. Alcohol Countermeasures Program used 402 funds to dramatically increase the number of alcohol-related arrests (from 900 to 4,000) over the early 1970's, reduced the average blood alcohol concentration (BAC) from .31 to .18, and reduced fatalities from 121 in 1970 to 46 in 1980.
- Selected Traffic Enforcement Programs (STEP) in North Dakota and Pennsylvania reduced accidents by over 40 percent. In the case of North Dakota, this decrease was in the face of a 62 percent increase in traffic volume. The STEP in Salt Lake City only reduced accidents by 27 percent -- but decreased fatalities by 60 percent.

Biographical Sketches

RAYMOND A. PECK, JR.

Raymond A. Peck, Jr., was nominated as Administrator of the National Highway Traffic Safety Administration in March 1981 by President Reagan. The agency is charged with enforcing the Federal Government's automobile and safety fuel economy laws, and with helping the States to carry out highway safety programs.

Mr. Peck is an attorney, who has practiced in New York and Washington. His private practice has involved litigation, administrative law, and regulatory policy. Mr. Peck has also held several prior positions in the Federal government, which have involved regulatory and legislative review and the formulation and articulation of environmental and energy policy. Those included:

Deputy Assistant Secretary, Energy and Minerals, for Power Resources and Regulations, U.S. Department of the Interior, Washington, D. C., June 1975 - January 1977.

Director, Office of Energy Regulatory and Legislative Policy, U.S. Treasury Department, Washington, D. C., July 1974 - June 1975.

Senior Attorney Advisor (April 1971 - November 1973), and Special Counsel for Environmental Matters (November 1973 - July 1974), U.S. Department of Commerce, Washington, D.C.

He has most recently been Vice President and Director of Regulatory Affairs of the National Coal Association, Washington, D.C.

Mr. Peck was born on January 16, 1940, in Orange, New Jersey, is married to Deborah Eaton and has one daughter. He received his B.A. from the College of the Holy Cross, and an LL.B. in 1964 and an LL.M. in 1966 from the New York University School of Law.

CARL E. NASH

Carl Nash was born and raised in northern California. He received a bachelor of Arts degree in physics from San Jose State College. He served in the U.S. Coast Guard and was a Peace Corps volunteer in Western Nigeria. On returning to the U.S., he earned a Ph.D. in theoretical physics from the University of North Carolina at Chapel Hill.

He has worked primarily in the automotive field for the last decade. However, for nearly a year, he was a consultant to the Department of Housing and Urban Development on the implementation of the Mobile Home Construction and Safety Standards Act of 1974. He next took a position with the transportation group of the Office of Technology Assessment.

Dr. Nash joined the National Highway Traffic Safety Administration in 1977, and was appointed to his present position of Deputy Associate Administrator for Rulemaking in 1980.

He is married to Dr. Deanna Collingwood Nash who is President of Collingwood Associates, a communications research firm. They reside in Washington, D.C.

TRAFFIC SAFETY PROGRAM EFFECTIVENESS

Senator ANDREWS. Mr. Peck, I appreciate that statement. The national traffic death toll figures compiled by the National Highway Traffic Safety Administration's National Center for Statistics and Analysis showed traffic deaths increased in the first quarter of 1981 but consistently declined in later months.

This drop in the highway death toll corresponds with the decline in the country's economy, leading me to speculate that it might reflect decreased auto usage.

Of course, the question that follows is: What good are your traffic safety programs when evidence seems to indicate that the most crucial factor in decreasing the number of highway deaths is the condition of our economy? Fewer people are driving; therefore, there are less highway accidents.

Mr. PECK. Historically that has been the case. Over the past year we have an anomaly in the statistics, which we are not fully confident of understanding ourselves. Over time, as the economy fluctuates upward or downward, vehicle miles traveled fluctuate upward or downward. That has not been the case over the past year.

The economy is in a severely depressed condition. Nonetheless, the vehicle-miles traveled, which is one expression of what we call exposure, increased. Notwithstanding that increase and notwithstanding the fact that there are a larger number of smaller and inherently less-safe cars—and I should say inherently less able to protect the occupants—nonetheless, the fatality rate did decline.

There are at least two components of that decline, the most significant of which is probably the severe winter we had this year and in the closing months of the winter of last year. It affected different areas of the country disproportionately, and it affected the roadways upon which the people traveled disproportionately.

What I think we will discover when we are through sorting through the statistics is, although the economy declined, vehicle-miles traveled increased, but those increases occurred on the major throughways and freeways which are historically safer. And as a result, although there was an increase of vehicle-miles traveled, there was a decrease in fatalities.

The absolute decrease was about 2,000. We had exactly 49,125 deaths in 1981, which is an overall decrease from the preceding 12-month period of 3.8 percent.

Senator ANDREWS. Let's go at it from a different direction. Earlier this month the Secretary of Transportation, Drew Lewis, told this committee that in his opinion the 2 to 3 percent of total highway safety funding represented by the Federal Highway Safety Grant program is largely ineffective.

Why should we continue to fund this program if it has no real impact on highway safety?

The Washington Post this morning is all full of statements about how you defy the Hill on safety rules and a host of other things. The Secretary of Transportation said you are ineffective. Everybody is clamoring for cutting back funds.

My question, Mr. Peck, is: Why aren't you a good target?

Mr. PECK. Being a good target is——

Senator ANDREWS. Remember, everybody is a target. I am just saying you seem to be coming up a better target than most.

Mr. PECK. I think in large part that is a function of the ambition represented by trying to effect so important an element to the American public as private automotive transportation. In fact, specific programs have shown striking successes, but the fact is that means to reduce deaths on the Nation's highways are limited by the laws of physics.

When you put yourself inside of a 4,000-pound projectile moving at 55 miles an hour, let's say, you are under the control more of the laws of physics than anything else.

Senator ANDREWS. I know that. My whole line of questioning is not that we are not in jeopardy out on the highways. We very certainly are. The law of physics has a great deal to do about the fact that we are within these projectiles and are aimed at each other and sometimes they hit each other.

The question I have is: What in the devil are you doing to change those laws of physics? What are you doing to change those odds? And why—given what the Secretary of Transportation says and given what a

GAO report that we have says—are you implementing a wide range of programs without knowing which have been successful or unsuccessful in reducing accidents?

GRANT PROGRAM EVALUATION

The GAO recommended, as I recall, that the National Highway Traffic Safety Administration develop a credible and organized evaluation program to determine which countermeasures work or do not work and establish a method for disseminating and using that information.

Over the past year what efforts have been taken to improve upon this problem and implement GAO's recommendations?

Mr. PECK. First, with respect to the GAO recommendation, it was addressed to the 402 program, which is the State and local community grant program. What we have done is undertake a nearly year-long rulemaking process.

As the administration came into power about a year ago we undertook, first, to discern among those highway safety programs which had been funded in the past those which had been most effective. We did our very best to persuade the States to concentrate funding, both theirs and the 2 to 3 percent that represents the Federal contribution, into those areas. We have been largely successful.

We have undertaken, as I said, a nearly year-long process, including detailed studies of 18 specific categories of highway safety programs. We have concluded, along with the Federal Highway Administration, pursuant to the direction of the Congress in the Omnibus Budget Reconciliation Act of 1981, that six program categories are the most effective.

We will be finally publishing the rule which will create these new high-priority areas on or before April 1, which is the statutory deadline. They will then become the funding criteria for the future 402 program.

Within those areas we have seen marked success. We have seen success in such tangible ways as the rate of survival of life threatening injuries as a result of emergency medical service treatment. We have seen absolute declines in the rates of fatalities and in the absolute numbers of fatalities in States where enforcement efforts have been focused on high exposure areas to get the alcoholic driver off the road. We have seen with respect to traffic records an enhanced awareness of the importance of interstate exchange.

Senator ANDREWS. Since you are going to have all of this information by the 1st of April and have it in finished form, and since the record doesn't close for this hearing until the 1st of April, or shortly after, might I suggest that you include the highlights of this finding, when you have it worked out, in the record at the appropriate place so we can have it?

Mr. PECK. I can submit a very short overview. The full record is about 4 feet high. I can submit this now.

Senator ANDREWS. Let me point out the last thing I want to do is clutter up the hearing record with a 4-foot high—or even a 200-page transcript of what you found. What you are doing is helping us try to make a record for or against you, and let me offer you the opportunity of summarizing in a brief and cogent form the guts of those multiple pages that you have out there and put those in the record and see exactly what you come up with and what your record is.

Mr. PECK. I would be delighted to.

[The information follows:]

MOST EFFECTIVE STATE AND COMMUNITY HIGHWAY SAFETY PROGRAMS

The Omnibus Budget Reconciliation Act of 1981 directed the Secretary of Transportation to undertake a rulemaking process to determine those programs most effective in reducing accidents, injuries and deaths. This process, which evaluated all 18 highway safety program areas in close cooperation with the States and concerned highway safety groups and individuals, has identified five priority program areas under the National Highway Traffic Safety Administration's (NHTSA) cognizance and one priority program area for the Federal Highway Administration (FHWA).

The NHTSA priority program areas are:

1. Alcohol - The problem of driving while under the influence of alcohol is one of major safety concern. Of the 50,000 traffic-related fatalities every year, approximately half involve alcohol impaired operators. Research indicates that the drunk driving problem is growing, rather than receding, as a factor in our national highway fatality program.

Numerous countermeasures have proved to be highly effective. For example, a series of demonstration programs were begun in 1978 to evaluate the effectiveness of the enforcement and treatment aspects of alcohol projects. One such enforcement project in Stockton, California, reduced the number of nighttime accidents by 16 percent. A treatment program conducted in Sacramento, California, reduced the re-arrest rate of first offenders (social drinkers) by 10 percent. The basic conclusion is that continuous, intensive, well publicized enforcement does create a deterrence to drunk driving.

2. Police Traffic Services - Closely related to the drunk driver problem is the growing need for increased police traffic programs. Traffic services such as the Selective Traffic Enforcement programs have proved to be uniformly effective throughout the nation in reducing accidents related to speeding, alcohol use, and other traffic law violations. These programs achieve their effectiveness by focusing enforcement efforts at the time and place of most traffic accidents. Other police traffic services, such as training and data collection, all work together to increase police efficiency and reduce the costs of traffic enforcement. The comments to the docket indicate that large numbers of police agencies may not have current access to the best available traffic safety methodologies and data, and that the incentive of Federal funding assistance is an ideal mechanism for obtaining improvements in technology and manpower assignment techniques.

3. Occupant Protection - The third major area of national concern is occupant protection. Statistics unequivocally show that safety belts and child restraints, if used, could prevent half of all deaths and injuries to occupants of passenger cars, light trucks and vans. Unfortunately, only 11 percent of all vehicle occupants and only 20 percent of children under age 5 are protected by use of these restraints. Countermeasures effective in increasing occupant restraint usage have been identified by NHTSA in its research conducted in conjunction with its nationwide educational program.

For each one percent increase in usage on a national basis, NHTSA currently estimates over 180 lives would be saved per year. A savings of 4,400 lives and avoidance of 87,000 moderate to critical injuries could be achieved with only a 35 percent usage rate, well within the range of voluntary usage achieved in other nations. The cost savings at 35 percent usage is estimated at $2.7 billion every year.

4. Traffic Records - The fourth category identified as being among the most effective NHTSA programs is that of traffic records. A good traffic records system within a State does not alone reduce accidents. However, it is the backbone and basis for informed decisionmaking for all other highway safety programs. Without an adequate traffic records system, States could not identify intersections and roadways that are particularly hazardous and could not identify groups of drivers or vehicles that experience higher accident rates. Many of the other highway safety programs, especially those in the police traffic services and alcohol countermeasure areas, depend upon the existence of a well developed, continuously updated system of traffic records. In addition, evaluations of program effectiveness could not be conducted without such a system.

5. Emergency Medical Services - The fifth area identified as being one of major concern is emergency medical services. Recent studies indicate that pre-hospital medical treatment reduced the overall mortality of accident victims by 5.8 percent and that an accident victim receiving medical treatment by an Emergency Medical Technician had a 9.5 percent greater probability of survival than a victim attended by someone with only basic training.

In addition to the proven effectiveness of this program, emergency medical services is being identified because of the possible reductions in overall Federal funding available for this area which could result from changes in legislation and regulations of the Department of Health and Human Services.

A parallel review and analysis by FHWA has identified safety construction and operation improvements as the most effective highway-related safety program area.

ALCOHOL COUNTERMEASURE PROGRAMS

Senator ANDREWS. You mentioned briefly that one of the programs that is being emphasized by the National Highway Traffic Safety Administration is the effort to reduce drunk driving.

Specifically, what are you planning to do in 1983 to reduce the number of individuals driving while intoxicated?

Mr. PECK. We have no direct authority on that. What we are doing is directed primarily at the States because it is the States that have the police authority.

Senator ANDREWS. But you are making some efforts to encourage the States. Do you have some specific performance measures built in to enable you to measure the effectiveness of your persuasion?

Mr. PECK. Yes; we are indeed. The overall alcohol safety effort in 1983 comes to $28.3 million, of which $25.8 is estimated to be spent from 402 grant funds, and $2.4 million from 403 funds under the operations and research appropriation.

Senator ANDREWS. Would you provide for the record what you are specifically going to do with the dollars so we can have some idea of what the program structure will be?

Mr. PECK. I can tell you exactly what we are doing with the 403 funds. The 402 funds are allocated by the States under our guidelines. Historically, in the past year 35 percent of the total available 402 money has gone into alcohol programs. Those programs have been focused on creation of a general deterrent program, which includes increased enforcement and related publicity, program emphasis and responsibility at the local levels primarily, financial self-sufficiency for local programs, so that the drunk driver can be controlled.

Senator Andrews. The committee has a multitude of line item dollar figures on what we have been throwing at this problem, but what the committee would like to draw out of you is what you are doing with these dollars.

In other words, you can spend $10 million and have no impact at all. You can spend $10 and have quite a bit of impact if you do the right thing.

Mr. Peck. We are getting drunks off the road, and that is evidenced by the increases in the rate of arrests and probably more significantly in the long-term, the decreases in the blood alcohol content of those being arrested.

Senator Andrews. But could you provide for the record then what the three most successful programs you are following are to get these drunks off the road?

Mr. Peck. Surely.

[The information follows:]

Drunk Driver Programs

We are working closely with the States and communities to assist and stimulate their implementation of three programs which we believe are effective in getting drunk drivers off the road.

1. *General Deterrence Approach*—Comprehensive community-based programs that focus on deterring the majority of drunk drivers who have never been arrested rather than treating the few who are arrested. This program has the greatest potential for reducing alcohol-related crashes in the short-term (1-3 years). We are urging that concurrent with the general deterrence programs, long-term prevention/education programs be implemented, aimed at changing societal attitudes toward drinking and driving.

2. *Citizen Support Programs That Generate Community/Citizen Support for Comprehensive Community Programs*—Citizen support and activism provides the necessary public and political support to raise the priority of the drunk driver problem to a sufficient level where a complete assessment of the drunk driver problem at the community level can be accomplished. Once this becomes a critical public policy, priorities can be established for dealing with the problem. This activism has created an atmosphere never before experienced in the United States. This activism has been responsible for renewed emphasis and implementation of task forces to deal with the drunk driver problem.

3. *Suspension of Drunk Driver's License*—This action has the greatest impact on reducing alcohol-related crashes. The use of driver license suspension and revocation, when supported by an adequate public information campaign, can also be a highly effective deterrence countermeasure.

FEDERAL ROLE IN DRUNK DRIVING PROBLEM

Senator Andrews. What in your opinion is the proper Federal role in working on the drinking and driving problem? Should we become more active or is this largely a concern to be dealt with by each State individually?

Mr. Peck. It has to be dealt with by each State because they have the police power. But the role of the Federal Government, it seems to us, is educational in nature, geared to increasing technology and informational transfer, so that the States can learn which programs have worked and which haven't and why.

Senator ANDREWS. In other words, you are not recommending any Federal legislation concerning the drunken driver?

Mr. PECK. There is pending Federal legislation in this area.

Senator ANDREWS. I am aware of the pending Federal legislation. You just said this has to be done by the States and; therefore, I asked you the question: Do you think this is the logical way to continue to go?

Mr. PECK. The pending legislation does address it at the State level because it addresses our 402 program, which is a grant program to the States, and insofar as it addresses it by requiring States or encouraging States to have comprehensive programs as opposed to scatter-shot programs, to have specific elements in their State laws, as per se minimum blood alcohol content levels, things like that.

I think it is appropriate for the Federal Government to encourage States to create that kind of effort. So, yes, we endorse that aspect of it, but that is not the Federal Government stepping in and having the FBI collar drunks.

PRESIDENTIAL COMMISSION ON DRUNK DRIVING

Senator ANDREWS. I get to the point where I wonder about it. Responding to congressional demands that the Federal Government stop drunk driving, at least 306 Members of Congress have expressed their concerns at last count.

The President has organized the National Commission on Drunk Driving. That is great and it sounds wonderful, but I understand to date nobody has been appointed to the Commission. What is the delay in making the appointments?

When can we expect the Commission to become fully operational or is it just the fact that the title is lurking around out there that is going to convince everybody to stop driving when they are drunk? What sort of contribution can you expect the Commission to make when you cannot even appoint anybody to the Commission?

Mr. PECK. Appointing a Presidential Commission turns out to be a considerably more difficult task than anyone had assumed.

FBI checks are being made. We understand that the list has been finalized, that individual members have been contacted, and an announcement about the Commission and its membership is expected to be coming out of the White House very shortly.

Senator ANDREWS. Do you have to have some type of CIA clearance?

Mr. PECK. They are presidential appointees, but I doubt if CIA is involved.

Senator ANDREWS. This Commission, as I understand, is only supposed to last for 1 year. You are taking more than 1 year to round up the people to appoint them. What effect does a Commission like this have, given the fantastic amount of work that you have to go through seemingly to get them all cleared and make sure they are proper and they brush their teeth at the right time of day? What assurance do you have that they are going to be able to make these decisions in 1 year and come up with a finished product so that you don't need them any more?

Mr. PECK. The one thing that concerned me, and not the President, I might add, when the proposal for the Commission was advanced to him was if it is only another study group, we do not need it. If it is going to delay taking real action, we do not need it.

We have had through the ASAP program as well as through the 402 program very significant research over the past several years. We are reasonably confident we know what does and does not work, subject to the variability among State laws.

The President's reaction to the letter transmitted to him and delivered to him by Congressman Hansen was a personal handwritten note back to the secretary insisting that we take this step forthwith.

The idea behind the Commission as expressed to the President, as expressed to the secretary and to me by congressional representatives who visited us at the department, was not so much to create another study group, another commission to generate more paper, but rather to heighten public awareness of the issue, to build upon and to capitalize the attention that has been garnered to this issue since last April.

The reason for that is this: Historically, it has been a slow, painful, and very expensive process for States or local communities to move from what is considered specific deterrents, deterrents aimed at a particular subject and a particular driver, convincing him he is likely to get busted and taken off the road, to general deterrents in which there is an awareness of the problem throughout society and the drinker is, by his friends, by his peers, and by social pressure, urged not to be on the road while incapacitated.

We can short circuit now, it appears, as a result of this generation of publicity—and it really is just that over the past year or so—we can short circuit some of the very expensive and usually very time consuming steps by heightening public awareness on it. The President's reaction was immediate and very, very strongly positive toward this kind of an approach.

Senator ANDREWS. We have been appointing commissions around this place since before the British burned the Capitol. They serve for a while and go away. This one is going to go away in a year.

What is this Commission going to do that you cannot find out by going out and talking to traffic judges in most any jurisdiction across this country?

Mr. PECK. It is going to be a Presidential Commission which will focus attention. It is not going to do another study.

Senator ANDREWS. It is going to focus attention?

Mr. PECK. That is correct.

Senator ANDREWS. If you can provide for the record just how you are going to focus attention and what kind of concrete results you plan to get from it, we would certainly enjoy taking a look at that kind of rhetoric.

[The information follows:]

PRESIDENTIAL COMMISSION ON DRUNK DRIVING

The Presidential Commission will not be a forum for further study but rather a public council to heighten public awareness and catalyze action by State and local governments.

The objectives of the Commission will be: To heighten awareness of the drunk driving problem; to provide Presidentially endorsed contacts with various State/local officials and organizations to gain their support in accepting and implementing the latest techniques and methods to solve the drunk driving problem; to assist in catalyzing State and local communities into action in an organized and systematic manner; and to assist in educating members of society as to the magnitude of the problem and need for both short and long-term solutions.

SAFETY BELT USAGE PROGRAM

Senator ANDREWS. As I understand it, your 1983 budget request also focuses on educational campaigns to convince the American public to use their safety belts.

What are these efforts and why do you think they are going to elicit increased seat belt usage? We have had buzzers. We have had flashers. We have had interlocks. You ought to try the fun of getting a car started when it is 45 degrees below zero out in North Dakota and that darn ignition interlock does not wor' You have to go around and try to lift up the hood in a blizzard and jiggle the thing to get it going.

We have done all of this. Now we have backed away from all of those deals and now we have some new way of getting us to put seat belts on. When is this campaign going to begin?

Mr. PECK. I wish you had not asked it in quite that way. It will be announced shortly by the White House.

I have to give you the same answer that I did with respect to the Alcohol Commission. We have briefed the White House senior staff. I personally briefed the President on it.

Senator ANDREWS. But you and the President feel you have something that is going to work better than all of the gimmickry we have used over the last 7 or 8 years?

Mr. PECK. That is correct.

Senator ANDREWS. And you are going to share it with the committee and the Congress when it does come out and the general public?

Mr. PECK. We have already, and our motivational research and the background material that has been done so far is in the agency files.

Senator ANDREWS. We understand West Germany, where the government years ago enacted a law requiring the use of seat belts at all times, estimates that the usage rates range from 35 to 40 percent. Do you have any evidence that increased levels of seat belt use will continue after the educational program?

Mr. PECK. As a matter of fact, the experience in Germany is one of the prime examples where precisely that has produced that result. We have looked in detail at what was done in Germany in the 2 years preceding their law.

I think I should point out that German law has no sanctions. It simply directs people to wear seat belts, period, unlike other laws in other nations which do have sanctions and which make it an offense of some sort. It simply requires, simply directs people to wear seat belts, period.

There was a 2-year public educational effort that preceded the adoption of that law. Before the onset of the educational campaign that preceded that law the usage rate was about 10 percent, which is about where ours is now. The usage rate at the end of the effort was 34 percent.

In the 2 years that preceded the effective date of the law a very sophisticated, probably the singularly most sophisticated public educational effort was put into place, which we have had translated for us, and it increased usage by about 25 percent.

The remaining between 15 and 20 percent, was achieved only after the enactment of the law. But in any event, the current usage rate is nearly four times what it is in the United States today.

We save 172 lives per year for every percentage point of increase.

SAFETY BELT OPERATION

Senator ANDREWS. I sometimes wonder how those crazy belts work. I have a Chevrolet that I got last fall and every now and then I try the seat belt. It has a shoulder belt that comes down and you pull it across. But I find that I can lean forward as far as I want to and the shoulder harness let's me go forward. I can go forward until I hit the steering wheel and and I can go forward until my head hits the windshield and that little old shoulder belt in that brand new Chevrolet let's me go forward and forward.

I wonder if they are decorations to make us look like the old Sam Brown belts the militarists wore or whether we are fooling ourselves, to give ourselves this false sense of security?

Mr. PECK. Mr. Chairman, I cannot tell you how much I would have given you to ask me that question.

Senator ANDREWS. I have finally come up with a good one. Even a blind hog can go around long enough and come up with an acorn.

Mr. PECK. In our review, in our focus group work particularly, that is one of the single most commonly expressed views. I wish we had one of the little models that we are putting in automobile showrooms for you.

What you are talking about is a new seat belt. We have discovered that upwards of 40 percent of the people in this country who have bought cars fairly recently who have this kind of a retractor had exactly that experience.

I had one guy come up to me at a cocktail party and say, "How can you possibly ask me to wear that kind of thing? I tried it. I bought the new car. It came right out. I can lean all the way forward and hit the windshield. I brought it back. They didn't fix it. I brought it back. They didn't fix it."

I finally took one apart with a screwdriver. Do you know what it has? It has this little thing inside that moves back and forth. What it is is an inertia wheel.

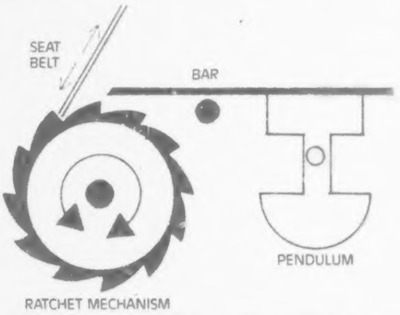
If you have any doubt about whether it will work, I would suggest this: Fasten it, go up to about 8 miles an hour and slam on the brakes. It will not let you move forward. It is designed to allow freedom of motion until the vehicle itself is subject to a deceleration, at which point a small pendulum operates to engage a rachet which prevents the belt from moving.

This is one of the materials we put together for the campaign. It is entitled "The Safety Belt: How It Works." It is used to secure the endorsement by corporate sponsors of employee seat belt usage campaigns. It was developed because we considered this so important and so widespread a problem. If I might, I would like to submit it for the record.

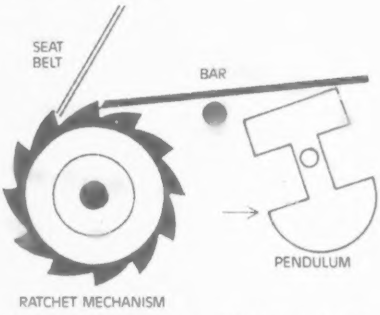
[The information follows:]

THE SAFETY BELT: HOW IT WORKS

NORMAL CONDITIONS

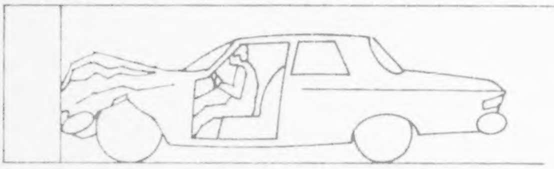


EMERGENCY CONDITIONS



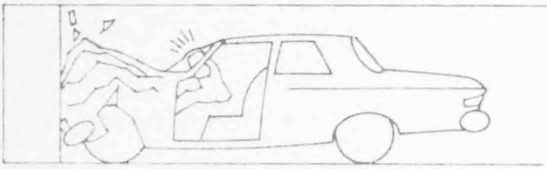
Under normal conditions, the pendulum and bar are in their rest positions. The reel, which holds the belt, is free to rotate. As the occupant moves forward, the belt moves unrestrained with the occupant.

Under emergency conditions, such as in a collision, the pendulum moves forward under the force of the impact causing the bar to engage the ratchet. The reel and seat belt now lock in place and the occupant is held firmly in place.

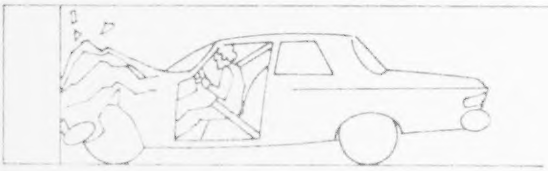


On impact, the car begins to crush and slow down. The person inside continues to move forward at the same speed the car was traveling.

Within 1/10 of a second, the car has come to a stop, but the person is still moving forward.



1/50 of a second after the car has stopped, the unbelted person slams into the dashboard or windshield. This is the human collision.



With effective safety belts, the person will stop before his or her head or chest hits the steering wheel, dash or windshield.

Mr. PECK. The early seat belt had what was called an automatic locking retractor. That automatically cinched up as you moved. Gradually it got tighter and tighter and tighter until you had to unfasten it and then refasten it. The emergency locking retractor, which is the action of which you are describing, is a vast improvement over that.

Because, ironically, some people like to feel the security of the belt, some manufacturers have both kinds of retractors on the same belt. But in any event, it will indeed work when it is necessary. I am one of the living examples of that because I was in an accident.

Senator ANDREWS. You have made my whole day. I found out that I owned something that was far better than I thought. I thought there might be a little genie or gremlin that would see when you are going to bump and start reeling that thing in like a fish line or something. You tell me essentially that is what we have.

The other thing that is good is it is the first time in a whale of a lot of these hearings that we have learned something substantial. [Laughter.]

I learned a whale of a lot more from you than when we had the ICC earlier.

MANDATORY SAFETY BELT USAGE LAWS

Are you advocating a mandatory seat belt usage law here? I took it from the way you absorbed my conversation about the German seat belt law right after you said you and the President talked about something very potent to come out with to get everybody to use seat belts. Does this mean that you are going to come out with a mandatory seat belt law recommendation?

Mr. PECK. I don't think so, not at the Federal level, for this reason: Although our experience throughout the world is that the last 10 or 15 percent of incremental usage of seat belts is only achieved after there are laws with sanctions, it is much more appropriate to handle these kind of questions at the State level.

I distinguish on this question at the State level between child restraint laws and mandatory occupant restraint laws. There are now child restraint laws in, I believe, 11 States, eight of them in force already, and an occupant restraint law that applies to adult occupants as well is being moved and pushed and supported in the State of Michigan this year.

I think it is appropriate for that issue to be handled at the State level. But the simple fact is that if one State, such as Michigan, were to enact a law that would get significant portions of its population using seat belts, more people would be using their belts than in, I believe, what I calculated as the sixth or seventh year of the passive restraints standard.

NATIONAL DRIVER REGISTER OPERATION

Senator ANDREWS. Mr. Peck, where do you see the National Driver Register going in the coming year? How can its operation be improved to better serve the States?

Mr. PECK. Yes; I think it can be improved. This is an issue which represents a flat reversal of our view within the department. One of the first decisions we took virtually a year ago was to, in effect, zero out the National Driver Register.

We not only provided in our budget request of last year for only wind-down funding, we submitted separate legislation to repeal the enabling legislation.

The National Driver Register now collects data on license actions taken by States. The States are free to participate by forwarding that information to the register. It is kept in computers and any State that wishes to file an inquiry can learn what actions have been taken against a particular individual.

The idea of the register is that you cannot have a license pulled in one State and acquire a license in another State. The difficulty is that over the past several years 33 of the States have adopted computer license issuing capabilities, which gives them, for all practical purposes, over-the-counter capability. Having invested in that computer capability within the State, there is significant pressure for them to use it.

The National Driver Register as it works now involves our mailing the response back to the State. The timeframe is commonly 10 days, often more. That is just too long for the States to wait.

Some States do not participate at all. For those who do participate, there is a strong inclination to simply send in the license actions they take, because they want those recognized by other States. But they do not query the register with respect to applications for licenses by people within their States.

What we decided to do is this: That system we have now, depending as it does on the mail, does not work compatibly with the States. At the same time it maintains at the Federal level, as far as we are concerned, too much data.

So what we would recommend is an electronically-based pointer system. It would allow States to file with the Federal Government reports which include only the identification necessary to identify an individual against whom a license action has been taken.

Electronically, a State could query the National Driver Register and be told what State has filed a report on that individual. They would then be put in direct contact with the other State.

The Federal Government would not be maintaining the kind of information that raises everybody's privacy haggles, and the time capability of response would be shortened to the point where it can be meaningful.

I think as a matter of philosophy. The administration has never questioned the goal of the National Driver Register. It is by definition interstate. If there is a valid governmental interest in keeping people from losing their licenses 50 straight times in each of the States successively, and I believe there is, then this would be the appropriate way to do it.

There is pending legislation on which we have cautiously worked with the committee staff in markup. I think it is possible to have a National Driver Register that is both efficient, cost effective, appropriately limited in terms of the amount of Federal data maintained, and which will provide a valuable function for the States in fulfillment of their sanctioning powers.

Senator ANDREWS. And that will improve its operation?

Mr. PECK. Yes; it will, sir.

TRAFFIC SAFETY FOUNDATION

Senator ANDREWS. Mr. Peck, a number of reports in the media criticized your involvement as a safety administration official in supporting the Traffic Safety Foundation, the nonprofit organization which was created after you gave them a contract of $9,903 to evaluate the feasibility of establishing such an organization to promote traffic safety.

What has been the extent of your involvement in encouraging this venture?

Mr. PECK. Declining to serve on the board of trustees. I sat in on a meeting which first raised the question of whether a 501(c)3 corporation in the private sector—whether a 501(c)3 of the Internal Revenue Code would cover an organization in the private sector designed to help fulfill the same goals as the agency. And I suppose as the head of the agency I am responsible for the $9,903 contract that was issued for the feasibility study. That effectively is all.

May I elaborate just a bit on that?

Senator ANDREWS. You can provide all kinds of information for the record, too, because we want it as complete as possible. Putting it in the record gives you a good opportunity to state your side of it.

The thing that bothers me is why this contract was even necessary, given the fact that there are many highly respected highway safety groups already in existence.

Mr. PECK. But they are not 501(c)3 corporations, and we didn't know whether there were 501(c)3 corporations out there, and for that matter whether it would be a legitimate 501(c)3 purpose, highway safety.

In general, as volunteerism, however you describe it or however you define it, begins to move into this area, there will be more and more occasions on which functions which are now executed by the Government will move out into the private sector.

Senator ANDREWS. That is fine. But the Los Angeles Times, we understand, reported that the product of this contract was a report that was determined to be unacceptable by the National Highway Traffic Safety Administration standards, which leads you to wonder what followup actions you are planning with regard to this contract.

Are you going to try to recover the money?

Mr. PECK. No. I am sorry. I am not familiar with the details of what is going on now. But that is a mischaracterization of the fact.

We very often in the course of a contract will not accept it. The formal acceptance by the agency makes it an agency document. There are technical contracts which we have out for years before the contract technical managers have, in fact, accepted them.

Senator ANDREWS. Then, again, Mr. Peck, let me ask that you provide that for the record, and our staff will give you a copy of the charges carried in the Los Angeles Times.

Mr. PECK. I have a library probably broader than yours.

Senator ANDREWS. You probably have more of that information than we have, but the question I have is: If you went to this organization and if the media purports it to be a sweetheart deal and if you give them close to $10,000 for a report that turns out to be unacceptable by your own standards, then, as the night follows the day, what do you do to recover the money and what are you doing to recover the money? Or where are the holes in the argument in this newspaper story that says it was not a contract that met your criteria?

Mr. PECK. For the record, the contract was not let to the Traffic Safety Foundation. There was no such thing as the Traffic Safety Foundation. What happened was this—and I will submit this in detail for the record.

Senator ANDREWS. They created the organization after the contract was awarded and they then——

Mr. PECK. And after the original report was filed, yes.

Senator ANDREWS. Did they receive the money?

Mr. PECK. I beg your pardon?

Senator ANDREWS. Didn't this group receive the money?

Mr. PECK. No; it did not, sir. The contract was awarded to an existing company. A principal in that company thereafter formed the organization without our participation and without my personal knowledge. The Traffic Safety Foundation, to my knowledge, has never even gotten or applied for any funding.

Senator ANDREWS. The interest of the subcommittee, sir, is by your giving us the information to rebut the charges that have been rattling around in the press.

That is why we wanted to bring it up. I didn't want to go to the floor with somebody saying, "Hey, you are suspect enough when the Secretary of Transportation says that we can do it better without you." We do not want to add too much more fuel to the fire.

[The information follows:]

A number of questions have been asked about the origins of the Traffic Safety Foundation by our House Appropriations Subcommittee, as well as by your subcommittee. In the interest of answering as completely as possible, I am providing an answer that responds to all the questions we have heard voiced.

I

The initial questions concerned the need for the type of study that was performed, our basis for awarding the study contract to Jacobs and Company on a Sole Source basis, and the quality of the work that resulted.

With respect to the background of this issue, a principal goal of the safety belt campaign is to maximize private sector efforts to disseminate information. Early last year in reviewing past efforts and discussing future possibilities with a broad range of private corporations, the Agency discovered that instances existed in which corporations had earmarked funds for contribution to entities which were under section 501(c)(3) of the Internal Revenue Code tax-exempt donees. Other instances existed in which individual entities wished to help in the private sector but, because of limited funds or the type of activities involved, saw no means to do so. For example, existing institutions such as the National Safety Council and the Highway Users Federation were discovered not to have such tax-exempt status, and no eligible tax-exempt organization was known to the Agency at that time.

Numerous questions arose concerning whether there were any such entities in existence, whether such a purpose could be considered eligible for 501(c)(3) treatment, what such an entity might do, and the legal considerations relevant to its establishment.

On October 9, 1981, and unrelated to the discovery of the same question by the Agency, Mr. Stephen A. Jacobs made a presentation to the Agency suggesting that such a possibility be explored. This presentation was unsolicited. Mr. Jacobs cited as parallel efforts, in other areas, work he had done in establishing the National Energy Foundation while previously employed by the Department of Energy. That Foundation is a cooperative government agency-corporate sponsored public service campaign that is closely analogous to the type of government-private sector cooperative efforts which we considered critical to the success of our current efforts.

Based upon that presentation, the Agency entered into a sole-source contract with Jacobs and Company to further explore these issues in a feasibility study.

At the same time, I asked for a legal memorandum from our Office of Chief Counsel addressing, from the government's standpoint, any legal issues raised by the proposal, including whether employees of the Agency could volunteer services to any such effort. Representatives of that office sought and reviewed further information from Mr. Jacobs, which formed the basis for a memorandum to me dated November 3, 1981, a copy of which is attached.

Applicable Department procedures exempt from the requirements for full internal review non-competitive procurements having an estimated cost of $25,000 or less. NHTSA considered the sole source justification for this contract and found that Jacobs and Company was uniquely qualified to perform the contract. A copy of the contract and justification is attached.

The cost of this study was $9,902.85. Of this amount, $4,420.00 was allocated for direct labor by five Jacobs and Company officers and employees who were expected to spend a total of 170 man-hours on the project. An additional $2,210.00 for administrative overhead was projected based on a 50% burden rate. $2,625.00 was budgeted for the fees of a legal consultant and $647.85 was included as contractor's profit. This is in all respects consistent with our procurement practices and procedures.

Jacobs and Company provided the preliminary results of its feasibility study to NHTSA late last year. Upon review of that report, the Agency felt that a number of issues addressed in the study should be further developed and continued to work with the contractor to revise the study at no additional cost to the Agency. As revised, the contractor's report outlined how a nonprofit foundation could be established which would support the Administration in meeting its highway safety mission by working in partnership with the private sector to enhance the principal campaigns of the NHTSA. We find this report to be satisfactory and accordingly see no basis on which we could or should reclaim the amounts we paid the contractor for his report.

II

Questions were also raised about any prior relationships that Mr. Stephen A. Jacobs might have had with the Agency, the experience that entitled him to sole source consideration, and the origin of the idea for the foundation.

My reply is that I was first introduced to Mr. Jacobs on August 26, 1981, when he accompanied representatives of Warner Communications, which I am informed is a client of his firm, in making a presentation to the Agency in which they volunteered the services of that corporation in assisting in safety belt encouragement efforts.

I next met or spoke to Mr. Jacobs on October 9, 1981, when he made the above described presentation to approximately ten Agency representatives.

I did not and do not know Mr. Jacobs otherwise than professionally through his work on this contract and, subsequently, with the Traffic Safety Foundation.

Concerning Mr. Jacobs eligibility for a sole source award, his unique qualifications related not to prior substantive experience in the area of highway safety but to his expertise in the area of tax exempt public service efforts. Mr. Jacobs, the president of Jacobs & Company, had been instrumental in creating the National Energy Foundation, an analogous non-profit foundation, and served as a consultant to the Department of Energy in developing a cooperative government-corporate public service campaign for energy conservation.

The unique character of his qualifications is illustrated by the fact that in our initial efforts to identify existing highway safety tax exempt organizations, we had found none.

As discussed above, the idea for what became the Traffic Safety Foundation, a non-profit foundation to promote highway safety goals, originated in all respects with Mr. Jacobs.

III

In the aftermath of the establishment of the Traffic Safety Foundation, the Foundation sent a letter soliciting funds for its activities. Questions have arisen concerning the propriety of these solicitations and whether it could be construed to constitute Federal agency support of this effort.

Neither the NHTSA nor I personally "actively supported" the establishment of the TSF. We considered the question of whether such an entity would be legal, appropriate and beneficial to achieving the goals of the Agency in the private sector, and had not reached any conclusion on that question at the time TSF was incorporated by Mr. Jacobs. Neither I, nor to my knowledge, the Agency knew in advance that such an organization would in fact be incorporated. No approval or sanction of such action was ever asked of or given by me.

There is not now and never was any "special relationship" between the Foundation and the NHTSA that would in fact compromise the integrity of the Agency or its mission. Neither I nor to my knowledge anyone in the Agency had any foreknowledge of what was a solicitation of funds mailed to several hundred corporations, including apparently nine which are directly or indirectly regulated by the Agency.

I had never been asked, and had never agreed, to serve such an organization in any capacity. However, in connection with an earlier invitation to serve on a board of advisors to the National Institute for Automotive Service Excellence, and in the legal memorandum prepared at my request following the October 9th meeting, our Office of Chief Counsel had indicated that such service in and of itself would violate no law or regulation of the Agency, provided no compensation of any kind was involved or contemplated at any time.

The first time I was aware either that a solicitation of funds was made by the TSF or that the voluminous material accompanying such solicitation stated as fact that "the Administrator of the National Highway Traffic Safety Administration will ex officio be an initial member of the Foundation's Board" was when in early December an existing highway safety organization, the Highway Users Federation, by telephone strongly objected to me that such a solicitation should have occurred.

When I thus learned, after its mailing, that the Foundation's original fundraising solicitation had referred to the Office of the Administrator of this Agency, I became concerned that a possible appearance of impropriety could arise from the making of such a solicitation to members of industries regulated by this Agency. Although I did not consider the Foundation's action in this regard to be improper, from the Agency's perspective I felt it necessary to avoid any suggestion that regulated parties could receive special consideration from NHTSA by contributing to the Traffic Safety Foundation. I contacted Mr. Jacobs and insisted that he immediately send follow-up correspondence to all parties on his mailing list which might have an interest in the actions of this Agency informing them that I had declined to serve on the Foundation's board of trustees for that reason.

In response to questions whether I had agreed to sit on the board of directors of the Foundation, I replied that I had never agreed to serve on the board and provided a copy of the attached memorandum which I had requested the Chief Counsel of NHTSA to prepare. I had no role whatever in the activities of the Foundation, did not know that any solicitations were to be made, and did not participate in any such solicitations. We have never attempted to exert control over the material published by the Foundation or in any other way to influence its activities.

IV

I should note that letters endorsing the goals of the TSF have been received from the White House. Neither I, nor to my knowledge anyone from this Agency, played any role in this endorsement, which appears to have been acquired by Mr. Jacobs entirely on the merits of his activities. Frankly, I would like to quote from my December 11, 1981, letter to Mr. Jacobs (a copy of which is attached):

> "As you know, the Administration is strongly committed to voluntary private sector efforts such as yours. I applaud and endorse the stated purposes of the Foundation. The achievement of your goals could materially enhance the efforts of the highway safety community to reduce the terrible economic and emotional burdens the nation now suffers because of highway deaths and injuries."

NSN 7540-00-634-4105

PREVIOUS EDITION USABLE

MARK ALL PACKAGES AND PAPERS WITH CONTRACT AND/OR ORDER NUMBERS

1. DATE OF ORDER 10-20-81	2. CONTRACT NO. (If any)	3. ORDER NO. DTNH22-82-P-05017	PAGE 1 OF 4

4. ISSUING OFFICE DOT/National Hwy. Traffic Safety Admin./Office of Contracts and Procurement
400 Seventh Street, SW.; Washington, D. C. 20590 --NAD-30

5. ACCOUNTING AND APPROPRIATION DATA
2346-82-2582

6. SHIP TO (Consignee and Address, ZIP Code)
DOT/National Hwy. Traffic Safety Admin., Public Affairs and Consumer Ser., NOA-60/400 7th St., SW.; Washington, D.C. 20590

VIA
Attn: Mr. Rick Smith-Rm. 5232

7. TO: CONTRACTOR (Name, Address, ZIP Code)

Jacobs & Company
1820 Jefferson Place, N.W.
Washington, D. C. 20036

8. TYPE OF ORDER
☒ (a) Purchase Reference your letter dated 10-19-81
Please furnish the following on the terms specified on both sides of this order and on the attached sheets, if any, including delivery as indicated. This purchase is negotiated under authority of 41 USC 252(c)(3)

☐ (b) Delivery Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.

9. REQUISITION OFFICE ▶ NOA-60

10. REQUISITION NO./PURCHASE AUTHORITY
42-10-82-5017

11. F.O.B. POINT Destination	12. GOVERNMENT B/L NO. N/A	13. DELIVERY TO F.O.B. POINT ON OR BEFORE 11-2-81	14. DISCOUNT TERMS Net

*See reverse for rejections

15. SCHEDULE

Item No. (a)	Supplies or Services (b)	Quantity Ordered (c)	Unit (d)	Unit Price (e)	Amount (f)	Quantity Accepted* (g)
	Title: Highway Safety Foundation Feasibility Study Statement of Work The Contractor shall perform tasks outlined in the attached Statement of Work.	1	Job		$9,902.85	

OFFICE OF FINANCIAL MANAGEMENT
FUNDS CERTIFIED AVAILABLE
PER NHTSA ORDER 518-3
DATE 10-21-81 BY Tennessee A. Price

The following terms and conditions are applicable and are incorporated by reference:

1. Employment of the Handicapped
Section 1-12.1304-1
2. Contract Work Hours and Safety Standards Act-Overtime Compensation
Section 1-12.303

For information concerning this order, please contact Ms. Sonja Whitson, (202) 426-2102.

16. CLASSIFICATION ☒ SMALL BUSINESS ☐ OTHER THAN SMALL BUSINESS ☐ MINORITY BUSINESS ENTERPRISE

15. (h) Total from continuation pages ◀

SEE BILLING INSTRUCTIONS ON REVERSE

17. SHIPPING POINT

18. GROSS SHIPPING WEIGHT

19. INVOICE NO.

20. MAIL INVOICE TO (Include ZIP Code) DOT/Nat'l. Hwy. Traffic Safety Admin., Office of Financial Management-BAD-60, Rm. 6134
400 Seventh Street, SW., Washington, D. C. 20590

$9,902.85 ◀ 15. (i) GRAND TOTAL

21. UNITED STATES OF AMERICA BY (Signature) ▶ Joseph T Bolos

22. NAME (Typed) JOSEPH T. BOLOS
TITLE: CONTRACTING/ORDERING OFFICER

ORDER FOR SUPPLIES OR SERVICES 147-108 STANDARD FORM 147 (REV. 2-77)

STATEMENT OF WORK

The Contractor shall furnish the necessary qualified personnel, facilities, materials, and services to accomplish, in consultation with the Government, the work set forth below.

Introduction

This effort will provide the National Highway Traffic Safety Administration (NHTSA) with a study of the feasibility of establishing a non-profit foundation to support, enhance and augment a national educational and advocacy mission to significantly reduce the number of deaths and injuries caused on the nation's highways.

Background

The current thrust of the Administration is to expand the voluntaryism effort of the American public and other private sector organizations, including corporations and businesses and civic and service associations, in programs which have principally been government operated, but which are basically people oriented programs. Highway safety is clearly a field of endeavor which offers high potential for citizen involvement and corporate participation. Yet, government structure acts as a hindrance to the full participation by citizens and private sector organizations in highway safety endeavors, particularly in the advisory, advocacy and information disseminating role. Restrictions and limitations on advisory committees, materials development, and the reproduction and distribution of educational materials are but a few examples.

One way to provide a mechanism to enhance and augment the national educational and advocacy mission of highway safety is through the creation of a nonprofit (501(c)(3)) foundation. Such a foundation could work in partnership with government, the private sector and citizens groups to maximize the effectives of highway and motor vehicle safety through the dissemination of information to the driving public.

This effort will bring into existance an organization that can leverage the budget power of the Administration to accomplish more without added budget funds.

Special Requirements

The Contractor shall perform the following:

Task 1. Show how safety programs on the highway can be guided by national policy yet funded by a wider variety of sources in order to create a safety partnership among the public and private sectors.

Task 2. Determine if and how such an organization can be established to reflect government policy in advocating, educating and informing the public about safety on the highway. This task involves creating the preamble to the proposed organization in such a way that it best serves national safety interest.

Task 3. Prepare the articles of the organization, prepare an organizational structure and determine funding base of the organization.

Task 4. Review how the organization can support, enhance and augment the mission.

The above tasks will involve legal support, indepth foundation and non-profit background, and the creation of a context within which the organization can operate, to succesfully get its job done, in support of the Administration's safety concerns.

Consideration and Payment

The Contractor shall be paid a firm-fixed price of $9,902.85 upon completion, submission and acceptance of the final deliverable by the Contracting Officer or his designee. The Contract Technical Manager (CTM) is the designated representative of the Contracting Officer authorized to accept the deliverable.

Contract Completion Date

All work on this contract shall be completed by November 2, 1981.

Reporting Requirements

On or before the contract completion date, the Contractor shall deliver one (1) camera-ready copy and five (5) reproduced copies of the Final Report which shall contain, as a minimum, a recapitulation of the contract effort and recommendations for future improvements. The Final Report should contain as a minimum:

(a) a two or three page summary of the foundation approach, results and conclusions;

(b) foundation approach and methodology;

(c) analysis and interpretation of the findings;

(d) conclusions and future recommendations for the foundation;

(e) names, qualifications and participation of researchers.

Delivery

The Final Report shall be delivered to:

U. S. Department of Transportation
National Highway Traffic Safety Administration
400 Seventh Street, S.W.
Washington, D. C. 20590

Attn: Mr. Rick Smith
Contract Technical Manager
NOA-41, Room 5232

Briefing

A briefing shall be conducted at NHTSA in Washington, D. C. Exact time and date shall be coordinated between the Contract Technical Manager (CTM) and the Contractor. The briefing shall be presented as follows:

At the time of the briefing, the Contractor shall furnish copies of a handout for the NHTSA personnel at the briefing, which will contain essentially the slides and viewgraphs to be used in the briefing plus a short description of the slide or viewgraph on the facing page. One (1) copy of all briefing material slides, etc., shall be supplied to the NHTSA at the time of the briefing.

The briefing will be formal and will be presented to a NHTSA audience of approximately 6 persons.

SOLE SOURCE JUSTIFICATION

Stephen A. Jacobs is the only consultant to have put together a cooperative government agency-corporate sponsored public service campaign which involved total agency control, reached into every classroom in the nation, and was totally paid for by the private sector. This partnership program among corporations and the federal government was nationally acclaimed and had a White House Kick-off. Mr. Jacobs appeared on Good Morning America, PM Magazine, and other network news programs to describe his successful efforts. All of these efforts took place within this last year. The development of a Foundation feasibility study to create corporate-government cooperation and partnership for a national public service campaign is a natural extension of Mr. Jacobs' most recent efforts.

Further to this unique experience, Mr. Jacobs also:

- Represents the corporate-sponsored National Energy Foundation. He is kicking-off their Washington Foundation opening, provides programmatic development for them, as well as recently producing a national public service campaign for NEF sponsored by private corporations.
- Created programs and outreach activities, as well as marketing support, for New York University -- the nation's largest private university. He provided the support material and served as a consultant to their successful $111 million fund raising campaign for this non-profit univeristy.
- Managed the national public relations and educational support for the most successful, least costly, national fund raising program in the U.S., the United Jewish Appeal.

- **Represented the Harvard Society of Fellows, a non-profit center at Harvard University, for their funding and positioning for board-based support.**

Approved

10/19/81

MEMORANDUM

Subject: Legal Issues Concerning Proposed Highway Safety Foundation

Date: NOV 3 1981

From: Frank Berndt
Frank Berndt
Chief Counsel

Reply to Attn of:

To: Administrator

You have requested that we review plans for a proposed non-profit, tax-exempt foundation to promote highway safety, and identify any legal issues involved in the formation of such an organization. The proposed foundation, tentatively named the Highway Safety Foundation, would be incorporated pursuant to the District of Columbia Non-Profit Corporation Act. NHTSA has provided sole source funding for a feasibility study of how such a foundation could be established.

Under its proposed articles of incorporation, the foundation would engage in charitable and educational activities to support and augment the highway safety purposes and priorities expressed by the Federal government and to increase awareness of highway safety and related concerns, including such matters as motor vehicle registration, driver education, and accident investigation and reporting. The stated purposes of the organization would also include providing support for the government's commitment to highway safety, alleviating tax burdens, and facilitating government and private interaction. Pursuant to bylaws yet to be drafted, NHTSA employees would serve on the board of directors of the foundation and perform other duties for the organization.

The Internal Revenue Code (IRC) provides that corporations or foundations organized and operated exclusively for charitable, educational and certain other purposes shall be exempt from payment of tax on their income. 26 U.S.C. § 501(a) and (c)(3). Internal Revenue Service (IRS) regulations define the term "charitable" for purposes of section 501(c)(3) to include the advancement of education, lessening of the burdens of government, and the promotion of social welfare. 26 CFR § 1.501(c)(3)-1(d)(2). The term "educational" is defined to include instruction of the public on subjects useful to the individual and beneficial to the community. 26 CFR § 1.501(c)(3)-1(d)(3)(i)(b). The IRC provides that no part of the net earnings of such an organization may inure to the benefit of a private shareholder or individual, and that, with limited exceptions, no substantial part of the organization's activities may be carrying on propaganda or otherwise attempting to influence legislation. 26 U.S.C. § 501(c)(3). Individuals and corporations are permitted, in computing taxable income, to deduct the value of charitable contributions made to such organizations. 26 U.S.C. § 170(a)(1) and (c)(2).

Based on its draft articles of incorporation, the proposed Highway Safety Foundation appears to fall within the scope of the charitable and educational provisions. In particular, the stated purposes of the organization regarding enhancement of governmental educational purposes and increasing awareness of highway safety concerns can be considered educational. The objectives of supporting governmental policy concerns and the government's safety commitment, increasing awareness of safety related concerns, involving corporations in public service, alleviating tax burdens, and facilitating government and private interaction appear to fall within the charitable purpose of lessening the burdens of government. Performing services for Federal, state or local governments, or providing assistance to governmental entities is considerd a charitable purpose. Rev. Rul. 68-307, 1968-1 Cum. Bull. 258; Rev. Rul. 71-99, 1971-1 Cum. Bull. 151; Rev. Rul. 70-79, 1970-1 Cum. Bull. 127; Virginia Professional Standards Review Foundation v. Blumenthal, 466 F. Supp. 1164 (D.D.C. 1979). Specifically, an organization assisting local governments in reducing traffic deaths through improved highway design was found by IRS to be operated for charitable and educational purposes. Rev. Rul. 76-418, 1976-44 Int. Rev. Bull. 7.

Of major importance to the tax-exempt status of the proposed foundation is the degree of independence it maintains from this agency. While such independence would also seem desirable from a policy standpoint in maintaining the foundation's image as an objective advocate of highway safety concerns, the organization must be viewed as a separate entity in order to maintain its tax exempt status. Rev. Rul. 60-384, 1960-2 Cum. Bull. 172; Rev. Rul. 74-14, 1974-1 Cum. Bull. 125. Although supported by public contributions, an organization will be denied exempt status where it is found to be an integral part of government and thus not operated exclusively for exempt purposes. Rev. Rul. 62-66, 1962-1 Cum. Bull. 83. In this regard, delegation of regulatory or enforcement authority to an organization, apart from other legal limitations, see e.g., National Ass'n of Independent Television Producers and Distributors v. Federal Communications Comm'n, 516 F.2d 526 (2d Cir. 1975), would generally be fatal to the organization's tax exempt status, notwithstanding that such authority is exercised in the public interest. Rev. Rul. 60-384, supra; Rev. Rul. 74-14, supra; Rev. Rul. 67-290, 1967-2 Cum. Bull. 183.

Mere receipt of Federal grant funding does not, however, jeopardize an organization's status as an independent entity. E.g., Rev. Rul. 78-68, 1978-9 Int. Rev. Bull. 7. Moreover, the fact that government employees participate in the activities of the organization does not in itself make the organization an integral part of government. Tax exempt status was granted to an organization formed to assist the National Park Service in educational and scientific programs, even though Park Service personnel were included on the organization's board of directors. Rev. Rul. 68-307, supra. In another case, an organization created to advise local governments on regional policies was granted an exemption, although its membership consisted of the chief elected officials of the jurisdictions to be advised. Rev. Rul. 70-79, supra.

In order to assure the status of the proposed foundation as a separate entity, we should take care to avoid the appearance that the foundation is merely an instrumentality of this agency. For example, while the present title of the proposed organization has a more neutral connotation, an earlier proposal describing the organization as the National Highway Traffic Safety Foundation was suggestive of control by this agency. Also, we should avoid domination of the organization's governing body by agency officials. Finally, the provision in the proposed articles of incorporation that the foundation will support policy concerns as expressed by appropriate Federal agencies and/or administrators suggests that the organization will operate under the direction of this agency, and should be modified.

Conversely, caution should be exercised that the organization is not operated in such a manner as to further private interests, for example, through promotion of the products of particular manufacturers. Under IRS regulations, an organization seeking tax exempt status must establish that it is not organized or operated for the benefit of private interests. 26 CFR § 1.501(c)(3)-1(d)(1)(ii).

Turning to the issue of agency authority for involvement with the proposed foundation, section 401 of the Highway Safety Act of 1966 authorizes and directs the agency to assist and cooperate with private industry and other interested parties to increase highway safety. 23 U.S.C. § 401. Section 403 of the Highway Safety Act authorizes the agency to make grants to institutions for education of highway safety personnel, development of improved accident investigation procedures, emergency service plans, and related activities to promote the purposes of that section. 23 U.S.C. § 403(a). That section also authorizes grants to private agencies and institutions for driver education programs. 23 U.S.C. § 403(f). In addition, section 407(a) authorizes grants to non-profit organizations which develop innovative approaches to highway safety problems. 23 U.S.C. § 407(a). Authority for grants to non-profit institutions to conduct training programs is also found in section 106(b) of the National Traffic and Motor Vehicle Safety Act of 1966. 15 U.S.C. § 1395(b). Thus, we appear to have ample statutory authority for providing cooperation and financial assistance to the proposed foundation.

Limitations imposed by various statutes should be kept in mind in our dealings with the foundation. One such statutory limitation is the Federal Advisory Committee Act's extensive procedural requirements governing the formation and use of committees, conferences, panels, and other groups not composed solely of full time Federal employees. 5 U.S.C. App. I. If we plan to seek advice from the foundation on specific subjects relating to contemplated agency action, we may trigger the Act's requirements for chartering, reporting, and public notice of meetings.

As it appears likely that NHTSA officials will participate in the activities of the foundation, we must remain cognizant of the statutory prohibition against the acceptance of compensation by Federal employees from non-governmental sources for the performance of their official duties. 18 U.S.C. § 209. Since the proposed foundation will be a private entity, NHTSA personnel should receive no compensation from the foundation for services performed.

Finally, the acceptance by NHTSA employees of travel and transportation expenses from private organizations is governed by NHTSA Order 150-6. That order requires that all offers to pay travel expenses, received from non-governmental sources, must be submitted in writing to the Assistant Secretary for Administration for approval. Use of NHTSA funds for payment of NHTSA employees' travel expenses incident to foundation activities appears to be permissible under 5 U.S.C. § 4110 and would be the preferable approach.

Letter From Raymond A. Peck, Jr.

DEC 1 1981

Mr. Stephen A. Jacobs
Executive Director
Traffic Safety Foundation
Office of the Executive Director
1820 Jefferson Place, N.W.
Washington, D.C. 20036

Dear Mr. Jacobs:

Thank you for providing me with a copy of the articles of incorporation and initial prospectus of the Traffic Safety Foundation. I have reviewed the documents and have regretfully concluded that, due to the regulatory and contractual responsibilities of the Administrator of the National Highway Traffic Safety Administration, there could be an appearance of impropriety for the Administrator to serve on the Board of Trustees.

With regret I must therefore decline your invitation at this time.

As you knew, the Administration is strongly committed to voluntary private sector efforts such as yours. I applaud and endorse the stated purposes of the Foundation. The achievement of your goals could materially enhance the efforts of the highway safety community to reduce the terrible economic and emotional burdens the nation now suffers because of highway deaths and injuries.

We are currently reviewing the proper role of federal employees in all such private efforts, in order to determine the manner and degree to which relevant officers may lend guidance or assistance. Again, thank you for the invitation.

Sincerely,

Raymond A. Peck, Jr.
Administrator

Mr. PECK. Mr. Chairman, not having been here to hear that, I have to suspect that the Secretary was talking about either the Federal Highway Administration portion of the 402 funding which has, in fact, been zeroed out in our budget request, or he was talking about the relative disparity between the 2 to 3 percent of our 402 funding.

Senator ANDREWS. He was talking about the fact we are not getting much bang for those bucks.

Again, you be our guest. You can have a copy of his testimony and you can address the testimony and the interpretation we gave to it.

Again, the reason for these hearings is to get as complete a record as we can to take to the floor and for our use when we sit around this table and decide how we are going to allocate the limited amount of dollars that we have.

Mr. PECK. In our internal budget debates and in our reviews with the Office of Management and Budget, the Secretary has not only supported our position as to the necessity for the Grant Program, and the levels of our budget, but he has done so enthusiastically and specifically.

I find myself unable to respond to how that might be otherwise before the record of the committee, but I will certainly do so.

Senator ANDREWS. You can do that on the record where you have the whole text and you are not under the time constraints we are here.

[The information follows:]

GRANT FUNDS FOR HIGHWAY SAFETY

We believe that adjustments which have been made in the State and Community Highway Safety (402) Program will assure that grant funds are channeled into the most effective highway safety areas.

Under the march 1981 amendment to the fiscal year 1982 budget request, the 402 program was reduced from $177.2 to $77 million. We intended the $77 million to be focused on programs that had previously shown the greatest potential for reducing deaths and injuries, namely: Alcohol countermeasures, police traffic services, emergency medical services, and traffic records. Other programs such as those in the areas of driver registration and licensing which had not demonstrated effectiveness in the past, were not expected to be funded.

Since that time, the National Highway Traffic Safety Administration and the Federal Highway Administration, as directed by the Omnibus Reconciliation Act of 1981, have undertaken a rulemaking to determine those programs most effective in reducing accidents, injuries, and deaths. At this point, six program areas have been identified as being the most effective: The four mentioned above, plus occupant protection—safety belts and child seats—and the Safety Construction and Operational Improvements Program of FHWA. We have also designed a process by which funding for any other areas would have to be proposed and approved. We are confident that although the State and Community Grant Program has in the past funded some ineffective State programs, this will not be the case in the future using the criteria developed in our recent rulemaking.

CRASH TEST LEGISLATION

Finally, in December a bill was introduced in the House, H.R. 5119, to require auto manufacturers to crash test their own cars under criteria specified by you and certify the results. This would allow consumers to review safety tradeoffs as they do fuel efficiency ratings on new cars.

Are you familiar with this particular bill?

Mr. PECK. No; but I am with the program that we run.

Senator ANDREWS. What is your position with respect to the idea of requiring each company to test its own cars and advertise the results?

Mr. PECK. We are now undertaking as part of what we call the New Car Assessment Program, a program addressed to just what it is that we or anyone learns from crashing a car. Those are repeatability and reproduceability tests that are being conducted on 16 vehicles at four sites.

The purpose of that is for us to be able to explore the issue of crash testing as an effective predictor of vehicle performance among identical vehicles in the same crash.

In establishing title II of our enabling legislation, the Congress directed the agency to undertake a program to collect and publish crash worthiness information.

There are basically three ways to establish crash worthiness that have been explored to date. One would be computer modeling of the crash and the occupant compartment and the effect in a crash.

There are some auto companies that have done very significant work. We have done some very surprising work in connection with air bags. We are continuing to develop the question of whether you can, in a computer model, catch enough of the variables to be able to predict the performance on the road.

The second is from all field crash data. The trouble is in this country seat belt usage rates are so low we do not have the kind of body of data as exists, say, in France. We are following very closely the effort of our counterparts in the French Government and in the French private sector to analyze the on-the-road performance data for specific cars.

The third way, and the way that was selected by this agency several years ago, is to crash cars into a wall. The problem is we have never crashed enough cars into a wall, enough of the same cars into the same wall, that is, under similar circumstances, to be able to tell whether performance in a crash test tells you anything in terms of how safe the car really is out on the road.

Now, at least some authorities in France have compared very careful matching-case studies of actual accidents with our crash test criteria and have concluded, for our record in the crash worthiness proceeding, that our dummies get injured worse than their human beings. That is an element that we are looking at, but we will know more at the conclusion of this 16-test series whether, in fact, the crash test program or any crash test program is repeatable and reproduceable.

Incidentally, the industry has joined us in that effort. We had originally scheduled 12 tests at three sites, and General Motors is crashing four identical vehicles at their proving grounds.

Senator ANDREWS. If you find a crash test that is both replicable and reliable, do you plan to require each company to test its own cars and advertise the results?

Mr. PECK. It would certainly put a different light on that question. We have an outstanding notice of rulemaking to establish a crash worthiness program, which is a little more complicated than what you have described in the bill.

If we have established the repeatability and the reproduceability tests, I would think again about how I feel about the crash worthiness program. As a matter of fact, that is why we are doing repeatability and reproduceability tests. I don't know the answer to that question.

Senator ANDREWS. You are doing it in conjunction with the automobile industry?

Mr. PECK. No; we announced that we were doing it and the automobile industry, in effect, volunteered to do some of their own. They are doing the same cars and the same tests at a different site. There will be a total of 16 cars, 12 of our cars and 4 of General Motors.

Senator ANDREWS. Mr. Peck, I have a number of questions that I will ask for the record, mine and those of the other committee members. I appreciate your coming here.

SAFETY BELT DEMONSTRATOR

Mr. PECK. I'm sorry. I did not know we had one of these with us today.

Senator ANDREWS. A black box?

Mr. PECK. May I show you how your seat belt works?

Senator ANDREWS. Wonderful. You are going to show me how my seat belt works. You just told me it works. I am going to have to take your word for it.

Mr. PECK. You do not have to take my word for it. This is an actual seat belt.

Senator ANDREWS. Go ahead and show me, because I thought it was a fake. Either that, or I thought we were being so passive we were doing it for looks rather than for performance.

Mr. PECK. I am not known for my passive restraint.

Senator ANDREWS. Did you develop this or did the automobile industry develop this?

Mr. PECK. No; this is a retractor such as you have in your car. It has been contributed to us by the American Seat Belt Council for use in this educational program.

Senator ANDREWS. You are making the point, Mr. Peck, that this is a much better seat restraint than we have seen in prior cars?

Mr. PECK. That is correct.

Senator ANDREWS. I had a subcommittee chairman years ago by the name of John Rooney, who always said you never get into trouble if you don't stimulate a couple of extra questions.

The question that you stimulated is: Did this new change come about because of your shop's recommendation or is this something the industry did on their own?

Mr. FINKELSTEIN. It was developed by the industry, but essentially when we find something like this developed by industry, which is beneficial to our mission, we ask to use it.

Senator ANDREWS. At your urging, nudging, or persuasion?

Mr. FINKELSTEIN. Insistence.

Senator ANDREWS. Or did you stand back and all of a sudden see it and say, "Hurrah?"

Mr. FINKELSTEIN. Almost, and then we regulated it. [Laughter.]

SUBMITTED QUESTIONS AND RESPONSES

Senator ANDREWS. I have a series of questions for the record. Senator Chiles also has some questions he would like to have you answer for the record.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

DRUNK DRIVING

Senator Andrews: Last year, you stated that the objective for the alcohol safety program in the 1980's is "to focus more on the general deterrence aspects of the legal system such as enforcement, adjudication and sanctions." How have you worked to direct that portion of your safety program related to alcohol safety to achieve this objective?

Response: In order to refocus the drunk driver programs in our States and communities toward the "general deterrence" approach, we have established two general objectives in our agency's alcohol countermeasures program.

First, we have sought to inform the State and local political leaders as well as practitioners (police, prosecutors, judges, etc.) as to the validity and potential effectiveness of the general deterrence approach. We have pursued this objective by first commissioning a study by Professor H. Laurence Ross "Deterrence of the Drinking Driver: An International Survey" which develops the deterrence concept and the support for it in previous highway safety programs throughout the world. Further, we have conducted a series of workshops involving political leaders, police, prosecutors, judges, safety officials, citizens and others from virtually every State. These workshops described our concepts and how to translate them into effective State and local programs.

Second, we have continued our longstanding efforts to develop training courses and workshops and then train the practitioners who are on the front lines on the most effective techniques and countermeasures to combat drunk driving.

Our Section 402 and 403 program efforts reflect these objectives and we feel that they have been highly successful to date.

Senator Andrews: Based on experiences reported from other countries that have passed strict drunk driving laws, there is a typical trend where for the first several months there is an improvement in the level of drinking and driving. In subsequent months, however, the problem returns. What long-term impact can you hope to achieve in alcohol safety by encouraging stronger State enforcement, particularly when drunk drivers begin to realize that undermanned police departments have little chance of apprehending them?

Response: First, we need to reexamine the conclusions drawn from the international drunk driving programs referenced. We should not overlook the fact that some of these programs did achieve remarkable reductions in highway deaths. The British Road Safety Act of 1967 achieved a statistically significant effect and many lives were saved. The problem is that the crash rates crept back up after several years. Program effectiveness was simply too short-lived, rather than not being effective.

Recognizing the major shortcomings of these programs -- a lack of increased enforcement combined with effective media over a long-term, coupled with certain and swift sanctions -- we have developed the following six point concept:

1. General Deterrence Approach (short-term) - conducting programs oriented toward deterring the majority of drunk drivers who are never arrested (rather than "treating" the few who are) for short-term impact.

2. Community Focus - placing program emphasis and responsibility at the local level.

3. Systems Approach - integrating, the coordinating, enforcement, prosecution, adjudication, education/treatment, public information/education, and licensing functions at the local and State level as appropriate.

4. Financial Self-Sufficiency - assessing fines, court costs, treatment tuition fees, etc., to convicted offenders to defray the costs of local/community programs.

5. Citizen Support - generating community/citizen support for comprehensive community programs (to provide a political base for increased countermeasure activity).

6. Prevention (long-term) - efforts toward changing societal attitudes toward drinking and driving through long-term prevention/education programs.

To reduce the drunk driving problem in both the short-term (2 to 10 years) and long-term, requires all of the above elements. First, programs at any level must be of a general deterrence nature, that is, designed to impact and deter the vast majority of drunk drivers who will never be arrested. Programs which focus exclusively on the relatively few DWIs arrested each year (approximately one in every 2,000) will not significantly reduce next year's alcohol related crashes.

Second, the prime responsibility for solving this problem and the forum for action must be at the local level. The Federal Government cannot solve this problem, it can only promote and facilitate local/State solutions.

Third, there now exists in every State and locality the basic elements of police, courts, treatment, and media to deal with the drunk driver problem. The problem is that these elements are not working well individually, nor as an integrated system. Based upon NHTSA Alcohol Safety Action Program (ASAP) experience, creating a locally coordinated/managed countermeasure system -- which integrates the functions of the police, prosecutors, the courts, probation, education/treatment, public information (media), and licensing agencies -- improved both the effectiveness of the system as well as its individual components.

Fourth, solving the drunk driving problem requires a substantial investment in local and State resources over a sustained period of time. One shot, short-term emphasis programs set-up by special State (or Federal) appropriations will have a transitory effect at best. With the general trend toward shrinking State (and Federal) highway safety related funding, year-to-year maintenance or operating budgets for key State agencies (police, courts, treatment, etc.) are being threatened or reduced. As we saw in the ASAP projects, alternate sources of funding which would provide for sustained program operations are available. One of these prime sources are the DWI offenders themselves. We believe that making the DWI offenders who create the problem -- pay for its solution -- is good policy. By redistributing the offender fines, court costs, education/treatment tuition fees back to the local governments who pay for police, prosecutors, treatment, etc., programs could be made financially self-sufficient. With a carefully designed financial management system a State can also provide some funding for State level program coordination (as does the State of Virginia). A recently adopted New York statute, now redistributes all DWI fine revenue back to the counties for DWI countermeasure programs. It is important to note that in these States offender revenue is being employed to pay for the extra alcohol program efforts needed -- not the entire operating budget of any local or State agency.

Fifth, one of the principal barriers to effective drunk driving programs is in the broadest sense, political. Political pressure from concerned citizenry on State and local governments (including police, courts, and other involved agencies) is simply not present to a degree necessary to alter the priorities assigned to this issue. As we have recently seen in Maryland, New York, California, West Virginia, and elsewhere, an organized and informed body of individuals, many of whom are victims of drunk drivers, can bring about major advances in State laws and alcohol programs. By providing technical guidance to such groups as to effective countermeasures and techniques for program improvements, we can help develop this political support for increased countermeasure activity in the States and communities.

Finally, in the short-term, general deterrence programs offer promise for the control of the present drinking driver population. In the long-term, however, a societal norm must be established that makes drunk driving socially unacceptable behavior. Achievement of such a goal, as widely divergent from the present social attitude, as it is, will require decades of effort. The focus for such an effort must be the pre-driver population -- our youth. Through long-term prevention/education programs in schools and within our communities, responsible attitudes toward alcohol use and driving must be established.

Senator Andrews: How much of the increased attention being given to the drunk driving problem nationwide do you attribute to the State safety grant program as opposed to increased outrage by local citizens groups?

Response: We believe that both efforts have been effective, but that it is not realistic to attribute a percentage of the effectiveness to either one. However, we submit that the tools required for effective State and local programs have been forged and honed through the Section 402 and 403 programs over the last decade. We have helped provide, through the Alcohol Safety Action Programs and other demonstration projects in the 1970's, our research and development programs, the State and community grant program, etc., the techniques and means for police to enforce the law, prosecutors to prosecute it, and judges to adjudicate. What we now see is the political resolve to use these tools.

SAFETY BELTS

Senator Andrews: Selected theaters in the Washington, D.C. and Boston, Massachusetts, areas have begun showing a 10-minute film on seat belts and their use. "Faces in Crashes," which is available for the cost of handling, details the causes of injuries in highway collisions and examines solutions to reduce these injuries, specifically the use of seat belts. How does this film, which was privately produced, compare with your educational program to promote seat belt usage?

Response: We have no first hand knowledge as to how the film was received by the public, that is whether it educated viewers about these safety devices and convinced any to use seat belts. But news clippings we have seen suggest a mixed reaction from audiences. The theatre owner has had to return ticket prices in a number of cases because of complaints voiced by patrons, according to some news reports we have seen. We have tried to contact the theatre owner in Washington but we have been unsuccesful thus far.

As to the film itself, it was produced without the benefit of research by the Institute. We have this information based upon a direct question addressed to Ben Kelley of the Institute. Our own research shows that materials depicting violence, blood and disfigurement are not accepted by the audiences to which they are shown. This agency has engaged in extensive motivational research and focus group probing over the last year. If we have learned any one thing from our activity it is that a highway safety message that uses violence and scare tactics will not be accepted by drivers and passengers.

Senator Andrews: With a program such as this coming from the private sector, why must the Federal Government become so deeply involved in educating us on the use of seat belts?

Response: The private sector can be most effective in informing the public in this regard and already certain elements are helping to rediscover safety belts. Government's role must be to do the research, develop the educational messages and material and test them for effectiveness and impact, inform and catalyze private sector leadership into becoming involved in the safety belt effort and finally, to measure results. Government's role, in support of private sector efforts, is one of coordinating the broad program, continuing to enlist the cooperation, support and assistance of national organizations, who, using their existing communications networks, can deliver the safety belt message to the public at the local level as well as their own membership. Some organizations have resources to carry out such a program on their own. Others need modest assistance. All need technical support and encouragement and look for national leadership from the Federal Government.

The Transportation Research Board's Study of Methods for Increasing Safety Belt Use of March 1980 recommends Federal action ... "because a comprehensive program will not happen without leadership, which the Federal Government is uniquely capable of providing."

Senator Andrews: What goals have you established for measuring the success of the seat belt campaign?

Response: Success will be measured in three ways. The first will be the change in perceptions, attitudes, and knowledge concerning safety belts of both automobile drivers and passengers. The second will be the degree of safety belt involvement of the voluntary networks in spreading the safety belt message. By this we mean the degree to which these networks are involved in reaching their own membership as well as their constitutents with promotional material on safety belts, i.e., the effectiveness of safety belts and the risks of being in an accident. Measurement will be done by determining how many messages are delivered, how many people are reached, whether people are aware of a coordinated national campaign, etc. The third will be the actual measurement by observation of increased seat belt usage.

AIR BAGS

Senator Andrews: Last year, the U.S. District Court in Washington awarded damages against Fiat, the Italian automaker, for failing to provide "state of the art" safety design for door locks. In this case the company met Federal standards, but the court said it failed to use the best system that was available. Do you foresee a lawsuit of this kind resulting from the fact that no air-bags are available in domestically-built autos?

Response: Although such a lawsuit is a possibility, I believe that it is unlikely that a manufacturer would be held liable for failing to provide air bags.

Courts have consistently recognized that mere conformity with general industry custom or practice is not an absolute defense to a product liability claim. Likewise, compliance with a Federal safety standard does not create an absolute defense.

Manufacturers have been held to the duty of keeping aware of recent scientific and technological developments in their field. However, in determining a manufacturer's liablity for not using an alternative safety design, courts generally have balanced a number of factors, including the cost of the design, the technological feasiblity of an alternative design, the hazards posed by the design used by the manufacturer and the alternative design and the effect of the alternative design on the product's utility.

It seems unlikely that a court would hold a manufacturer liable for not having adopted air bags, particularly where NHTSA has made a determination that, in part, because of the relatively substantial cost of automatic restraints, the agency is precluded from determining that it would be reasonable and practicable to require manufacturers to provide them at this time. Although not controlling, courts have emphasized that the cost of an alternative design is an important factor in evaluating whether a manufacturer should have used that design.

In addition, courts have said that the issue of defectiveness must be determined with respect to the product as a whole. Thus, a vehicle's overall design, including the safety equipment, such as safety belts, provided in the vehicle, must be considered in making a determination of defect. The availability of manual seat belts, which are proven injury reducers, may preclude a determination of defect.

The Fiat lock question referred to in this question is Gatewood v. Fiat, S.p.A. The case resulted in a jury verdict for plaintiff on May 13, 1981; the court awarded a judgment for $650,000 based on the verdict. The case is now on appeal to the U.S. Court of Appeals for D.C. (Docket Nos. 81-1967 and 81-2004).

The vehicle involved in the case is a 1967 Fiat 600 D. It was manufactured in January 1967, a year before Standard No. 206, Door Locks and Door Retention Components, went into effect. Fiat did not claim that the lock met the standard. At trial, the court allowed the plaintiff to present testimony on the standard as evidence of the state of the art one year prior to the effective date of the standard. During the trial, Fiat presented testimony that there was no economically feasible alternative to the door latch system used in the vehicle. Plaintiff argued that testimony presented by Fiat did not conclusively show the burden on Fiat of adopting an alternative design.

Senator Andrews: Could the U.S. Government be pulled into such a suit for not requiring such "state of the art" technology for occupant restraint?

Response: It is possible that someone might name the United States or DOT or NHTSA as a defendant in a private lawsuit, on the theory that "inadequacies" in a Federal Motor Vehicle Safety Standard caused injuries to person or property, but it is unlikely that the individual who brought such a suit would prevail.

Under the doctrine of sovereign immunity, the United States, including its agencies, cannot be sued without its consent. Although the Federal Tort Claims Act is a limited waiver of sovereign immunity, Congress, in section 2680 (a) of the Tort Claims Act, excepted any claim based upon an agency's performance of (or failure to perform) discretionary functions from the waiver of sovereign immunity. Courts confronted with attempts to impose tort liability for the promulgation of or failure to promulgate agency regulations have consistently recognized the discretionary nature of agency rulemaking functions. Therefore, we believe that a court would not have jurisdiction over the subject matter of the lawsuit hypothesized in this question.

AUTO HOTLINE

Senator Andrews: It has been reported that the National Highway Traffic Safety Administration's Consumer Auto Hotline telephone service has been expanded as a way of replacing the "Car Book". Considering more than 1.7 million copies of this book has been distributed to the public, do you anticipate the Hotline will serve as many people as the "Car Book"?

Response: Expansion of the Auto Hotline to include consumer-related information was not intended to replace the "Car Book," but to improve consumer information dissemination program. In his memorandum of October 29, Jack Gillis, then of the Office of Automotive Ratings, provided his recommendations as to how NHTSA could expand its Public Information Program. One of his recommendations was to expand "the Auto Safety Hotline to provide an efficient and economical source of up-to-date automobile safety and performance information."

In providing that recommendation, Mr. Gillis at no time offered any caveats that the expanded Hotline would not be more efficient and economical. I understand he now is criticizing the agency by alleging the expanded Consumer Hotline would cost much more than publication of "The Car Book."

The new Hotline will be capable of meeting the public's demand for consumer information. Currently, Hotline operators and support staff are meeting all of the demands for information. We had promised the mailing of information within 24 hours and, indeed, even at its peak initial interest when calls were coming in at the rate of 800 per day, were responding by mailing the information within two hours of receipt of the request. I anticipate no problems in keeping up with demand, even as we continue to publicize the expanded Hotline.

Senator Andrews: How do the costs related to each project compare? Specifically, will it cost more to pay twelve operators 8 hours a day, along with related staff time and resources required to respond to requests for information, than was the cost of the "Car Book"?

Response: The "Car Book" cost the Federal government $1.2 million, in production and mailing costs. We have no similar costs estimates yet as to eventual costs of the expanded Hotline, other than Mr. Gillis' statement that the expanded Hotline would be "an efficient and economical source of up-to-date automobile safety and performance information." Prior to expanding the Hotline service, the Hotline cost for personnel and computer time was approximately $450,000 per year. The expanded use of the Hotline has increased the number of calls per day both for recall information and other safety related material. The increased number of calls for safety material has not resulted in increased cost for staff. However, the expanded service has increased the number of calls requesting recall information and this results in an increase in computer time and cost. If the increased numbers are sustained for a year the increased computer cost would be approximately $100,000. Providing the Car Book type information to the public by the Hotline could be viewed as costing either $0, since the Hotline was already in place and functioning, or $100,000 because it has generated more public requests for recall information.

Currently, Hotline staff and NHTSA support staff are handling all Hotline consumer information requests with no added costs to the agency. Staff is currently able to absorb the additional work load. As time goes by and the Hotline promotional plans are implemented, and the service becomes more widely known, I could foresee need for possible expansion of staff allocations and additional printing dollars, although virtually all printing to update materials will be in-house, greatly reducing federal costs. The extent of future needs, however, will be a function of demand, and we are monitoring that carefully, so as to make prudent decisions relating to burdens on the federal dollar.

SMALL CAR SAFETY

Senator Andrews: The Insurance Institute for Highway Safety recently compared passenger car occupant deaths for full-size cars and sub-compact cars, concluding that the number of deaths in the latter is more than two times as high, 3.5 passenger car occupant deaths per 10,000 cars, compared with 1.6 for full-size cars. With small cars quickly becoming an increasing part of the fleet and the number of deaths clearly highest in these cars, what have you done to focus your safety research on this situation?

Response: NHTSA has been concerned about small car safety and the effects of smaller and lighter cars for some time. Most recently, NHTSA has applied the 1980 accident data to an analysis of the safety impact of the increase in smaller and lighter cars in the fleet and has projected that substantial increases in automobile occupant injuries and fatalities may occur because of this change. In order to focus attention on the safety issues involved in this change, a group of closely related R&D studies have now been collected into an integrated "Small Car Program" for FY 1983 in the amount of $2,263K which will (1) confirm and quantify the safety impact of projected fleet mix changes, and (2) identify, develop, and evaluate potential vehicle countermeasures. The fundamental thrust of this program will be to focus industry and government safety R&D on issues arising from the projected shift of the fleet toward smaller and lighter vehicles. While the results of this program will not be exclusive to "small cars," the program will emphasize problems that are exacerbated by reduced car size and weight. We anticipate that this will result in greater attention to the "systems" aspects of safety countermeasures.

Senator Andrews: If such research has been initiated, please outline your research methodology as well as what can be considered as possible solutions.

Response: Program tasks have been organized into four major areas. The first category, Problem Analysis, addresses the questions of expected fleet mix, the types of technology planned for cars in the fleet and the accident experience of the types of cars expected to be in the fleet. These studies will provide the foundation and set the assumptions for the remainder of the tasks. The second major area is Safety Performance Evaluations which is concerned with the technical issues of (a) what safety performance levels will be achieved in future cars and what will this mean in terms of injuries and fatalities, (b) how can small cars best be evaluated in laboratory research and how can we correlate the laboratory tests with highway performance, and (c) based on measured performance and data analysis, what performance improvements should be sought? This Safety Performance Evaluation task will incorporate performance test data (including data acquired through additional tests) and computer simulations to predict safety problems under various future scenarios.

The remaining program areas address Safety Technology Research and the Application and Transfer of Technology. In recognition of the national need to carry out automobile safety improvement efforts in the most cost effective manner, the development of advanced countermeasures technology is being coordinated with the industry. Research responsibilities will be allocated between NHTSA and industry so that individual project plans are comprehensive, complete, and integral with the overall research effort; and so that duplication of effort between NHTSA and industry is avoided. Furthermore, if valid highway safety issues can be identified early through modeling projections and forecasts, and if practical corrective technology can be devised by this joint Industry/NHTSA R&D, then improved safety in automobiles can be transferred to the marketplace sooner.

RESEARCH SAFETY VEHICLES

Senator Andrews: In the 1970's DOT developed several light-weight, energy-efficient research safety vehicles to demonstrate to the auto manufacturers and the public what could be done with existing technology to provide adequate occupant protection in crashes. To date, have any of the safety features of the RSV been adopted by the automakers? If so, which ones? Do you still use these vehicles to promote small car safety?

Response: While the industry has not attempted to provide the high levels of crash safety performance achieved in the RSV's, they have incorporated many of the basic structures approaches or concepts at lower levels of crash protection. Chrysler Corporation, a major participant in the RSV Program, has production vehicles which provide occupant crash protection in frontal crashes at 35 mph. Today, manufacturers are including plastic body panels on some models and electronics applications for diagnostics and driver displays are widespread in the industry. As the industry continues to design its Model Year 1985 cars - at which the RSV project was aimed - further adoption of RSV features is expected. These include the utilization of high strength lightweight steels, soft front-ends, damage resistant bumpers, injury preventing windshields and single-beam headlamps and are examples of technology which the industry is analyzing for incorporating them into vehicle designs.

The public concern about highway safety continues and we still receive inquiries about the RSVs. These RSVs were widely displayed over a four-year period beginning with the New York City auto show in 1977 and further promotion is not planned. The RSV Program was the initial step in a joint Government/Industry effort for the improvement of motor vehicle safety.

We currently have broadened this cooperative effort with Industry to enhance the entire NHTSA regulatory reform program. The results of this new program will be the early introduction of cost-effective safety improvements into production vehicles.

AUTO RECALLS

Senator Andrews: We continue to hear about legal suits resulting from problems with Ford cars and trucks built between 1972 and 1979 with automatic transmissions. It has been claimed that when left in park with the engine running, the transmission gears can slip in reverse. Has Ford done anything to resolve this problem? What are NHTSA's plans with regard to this situation?

Response: Ford has mailed 20 million letters to Ford owners warning them of the possibility of unattended vehicle movement and has provided warning labels to remind vehicle operators of several simple steps they can take to reduce the possibility of such movement. Ford has also redesigned their 1980 transmission and gearshift systems to further reduce the possibility of an accident.

NHTSA is continuing to monitor the situation and will take whatever action is appropriate based on such new facts as are developed.

Senator Andrews: In general, if you were to discover a major problem in an automobile which, for whatever reason, necessitated a recall, would NHTSA advertise this recall to the public?

Response: NHTSA's policy relating to press releases on recalls remains the same in this Administration as in previous Administrations.

NHTSA will issue news releases on voluntary recalls when manufacturers do not and where, in the judgment of the agency, the safety defect identified by the manufacturer is of such magnitude that a clear and imminent hazard exists for motorists that could result in loss of life or injury in the absence of early and widespread notification. The agency also will issue recalls when we believe the manufacturer's requirement to notify owners by letters might not reach all owners because an older model car is involved that may have changed hands several times, thus complicating the owner identification process.

There are services that track all owners, through listings of motor vehicle registrations obtained from the states, but NHTSA policy is not to accept reliance on these listings when it is determined that a safety defect on an older model car is of such magnitude that it is imperative that all owners be reached.

In determining whether or not to issue a release, NHTSA also will consider whether the parts to make the repairs are available. Our studies show that many owners who bring their cars to dealers for defect-related repairs and who find the repair parts not yet available never bother to return to the dealer for the repairs when the parts do arrive.

Senator Andrews: By what other means is the public notified when a vehicle recall is necessary?

Response: Vehicle manufacturers are required by the National Traffic and Motor Vehicle Safety Act to notify by first class mail the person who is registered under state law as the owner of a vehicle involved in a recall. If the owner of a vehicle cannot be ascertained from state registration lists the vehicle manufacturer is required to notify the first purchaser or any subsequent purchaser known to the manufacturer. Although not required by statute, most manufacturers update the list of owners 6 months to a year after a recall is initiated. Follow-up notifications are then sent to the owners of vehicles which have not been recorded as having had the recall service performed. The manufacturers also issue press releases.

DOMESTIC AUTO SAFETY

Senator Andrews: The most recent report on injury claims, prepared by Highway Loss Data Institute, indicates that domestic car models consistently have better safety records than Japanese cars. Thirteen of the 17 cars (1979-80 models) with the highest injury claim frequencies were manufactured in Japan. Have Japan's automakers taken any initiative to improve upon this performance? Does NHTSA work with these firms to improve the safety of their cars?

Response: It appears that Japanese auto makers are taking steps to improve the safety of their cars. For example, when it was first crash tested by NHTSA in 1979, the Honda Civic was one of the worst performers. The 1980 model also performed poorly. However, the company modified the car's steering column and restraint system, and its performance improved to the point that the 1981 model was one of the best performing cars crash tested thus far.

The NHTSA has held informal discussions with all of the major Japanese manufacturers to discuss the results of the agency's crash tests and to recommend safety improvements in their products. In some cases, where a design or construction defect becomes apparent in the agency's tests, NHTSA immediately notifies the manufacturer to ensure that the problem can be corrected in a timely fashion. For example, in the 1980 test program, the safety belt latches failed in two of the cars tested. NHTSA notified the manufacturers, and the faulty latches were recalled shortly afterward.

Senator Andrews: U.S. automakers are reportedly reluctant to advertise these findings because they "think that safety isn't marketable". What can be done to change this attitude? Do you see any difference between U.S. manufacturers in this regard?

Response: The attitude of the public toward safety is the primary factor that will change the attitude of auto makers toward advertising safety. If the manufacturers perceive that safety is a major concern, they will advertise the safety features or performance of their products. The NHTSA has been developing and disseminating information of vehicle safety for several years so that people who are concerned about safety can make more informed vehicle choices based on safety factors.

We see some differences in the approach to safety promotion among the domestic auto makers. For example, GM has recently advertised the safety ratings given its cars by the Insurance Institute for Highway Safety, and discussed other safety issues in its advertising. At this time we are unaware of any other domestic auto makers giving such prominence to safety in their campaigns.

NATIONAL ACCIDENT SAMPLING SYSTEM

Senator Andrews: What is the status of the development of the National Accident Sampling System? Is it producing data that is in a usable form? If not, do you have a date when it is expected to do so?

Response: We are making good progress in the development of the National Accident Sampling System (NASS). Today, we have 30 sites operational in the NASS and teams to operate 22 additional sites are in training. The latter group will be operational in the last quarter of FY 1982, giving us a total of 52 operational sites at that time.

Yes, the NASS is producing important usable data today. Indeed, the data from 1979-80, collected at only 10 sites, is the basis for an informative and useful report on traffic accidents and injuries completed in FY 1982. Some selected statistics from this report were cited in the opening statement of these hearings. For convenience a few are listed below:

> Approximately 6,773,000 police reported accidents occur annually, of which 4,343,000 are property-damage only accidents, 2,431,000 are injury accidents and 44,000 are fatal accidents. These accidents involved 17,777,000 persons.

> Approximately 20 percent, or 3,456,000 of the accident involved persons sustained an injury. These victims of reported traffic accidents include 49,100 fatally injured, 420,000 survivors hospitalized and 1,192,000 persons treated and released from emergency rooms. The hospitalized victims sustain over 3.8 million days of hospitalization.
>
> About 12 percent of the accident involved persons used their seat belts. Only about 9 percent of the accident involved children under the age of 5 years were buckled up. Persons utilizing lap belts, lap-shoulder belts or child restraints, sustained significant injury about one-quarter as often as unrestrained persons.
>
> Alcohol is reported in approximately 44 percent of the fatal accidents and 34 percent of the serious injury accidents.
>
> Approximately 3 of every 4 accidents occur on the roadway; however, accidents when they occur off the roadway result in serious or greater injury over 2 times more often than those on the roadway.

In addition to the production of statistics such as those noted above, we have made extensive use of NASS in many studies requiring accident data. Our recent evaluation of head restraints in passenger cars utilized the NASS and we used NASS in estimating the involvement of large trucks in accidents and also the incidence of passenger car underride with large trucks. NASS data is being used extensively in improving past estimates of accident consequences on the public, including levels of injury severity, hospitalization and lost work incurred by the work force. Our study of steering column performance in light trucks and vans makes use of these data, and we are initiating analysis of NASS data collected on the subject of rollover, side intrusion and motorcycle accidents. NASS data is providing support to our seat belt program and to our alcohol program. Indeed, NASS is providing important accident data support to every key motor vehicle rulemaking and traffic safety program.

Senator Andrews: Since it will be several years before the National Accident Sampling System is fully operational, how is NHTSA prepared to address safety problems which require a large nationwide sample?

Response: The NASS itself, though not fully operational, is nevertheless an operating system. It has been providing unbiased national data since 1979 (see response above).

Its present weakness is a small sample size that contributes to large sampling error and to an inordinate length of time to collect data on rare but important events such as rollovers, impacts with roadside barriers, and use of child safety seats. For example, we collected 3,367 cases in 1979, 2,973 cases in 1980 and 6,100 cases in 1981. In 1982 and 1983 we will obtain approximately 10,000 and 13,000 cases respectively.

We have deliberately phased our implementation in this incremental manner, in order to justify carefully our specific needs for a national data collection network of this magnitude. Our overall objective remains to obtain a level of precision in the data that would allow the observation of annual changes as small as 3 percent in the serious injury population. This level is our estimate of the average annual change over the past five years. The data obtained in our 1978 pilot study, and supported by the 1979-80 period noted above, indicate a system of 75 sites is the most advantageous approach to accomplishing this objective. If these past judgments on data precision are sustained in the 1981 and 1982 data, we intend to seek additional resources in the 1984-1985 time period to increase NASS sites. This, of course, will be subject to the review of the Secretary and the Office of Management and Budget.

PRESIDENTIAL COMMISSION ON DRUNK DRIVING

Senator Andrews: What will be NHTSA's role with respect to the Presidential Commission on Drunk Driving?

Response: NHTSA will provide staff assistance and technical expertise to the Commission. NHTSA's efforts will be complementary to and supportive of the Commission's activities. In addition, as the Commission heightens the public awareness of the seriousness of the drunk driving problem and persuades State and local governments to attack the problem in a more organized and systematic manner NHTSA will provide technical assistance on the state-of-the-art in management, enforcement, adjudication, public information, education, licensing, etc., to further enhance the establishment of comprehensive community-based alcohol highway safety programs.

CRASH TESTING

Senator Andrews: On February 11, 1982, the National Highway Traffic Safety Administration conducted a crash test demonstration at East Liberty, Ohio which for the first time was open to the public and the news media. While this clearly opens up your testing process to the public, it would also seem to allow increased pressure from the auto industry. Will this increased access potentially inhibit the neutral testing done by the Agency's experts?

Response: We do not believe that allowing increased access to crash testing will inhibit or otherwise compromise our programs. Such access will help to ensure that these tests are credible and useful. The presence of industry representatives at the testing can help determine whether the vehicles being tested are properly prepared. Industry representatives can learn more about the performance of their vehicles by being present during the testing. This should improve communications between agency and industry experts.

Should we see improper pressure being brought to bear, we will take steps to ensure that the situation is corrected.

BUMPER STANDARDS

Senator Andrews: Is the National Highway Traffic Safety Administration planning any revision of the current 5-mile-per-hour standard for bumpers?

Response: The agency will issue an amended bumper standard in April 1982. We will forward a copy of the amended standard to the Subcommittee as soon as it has been issued.

Research and Development

Senator Andrews: The 1982 conference report mandated that of the $81.9 million appropriated for operations and research, $6 million was to be used for research and analysis work at the Transportation Systems Center in Cambridge, Massachusetts. Please specify what projects this money funded and the amount for each project. In total, how much research work do you expect to sponsor at TSC in 1982 and 1983?

Response: NHTSA Plans to sponsor $6 million of research work at TSC during FY 1982. As of March 9, 1982, $4.7 million has been obligated for the following projects at TSC:

Short Title	Current Level, $K
Alcohol Countermeasure Support	110
U.S. Veh. Regtrtn Data Base Support	75
Support to Nat'l Ctr. for Stat. & Ana.	275
U.S. Motor Veh. Safety Info. System	125
Highway Accident Stats. Analysis	291
FARS/NASS System Support	300
Economics Market Supply & Demand	400
Motor Vehicle Configuration & Perf.	200
Changes in Production Cost	635
Manufacturers Capabilities	250
Crashworthiness Support	1514
Engineering Support-HD Vehicle	35
Data Analysis Support	50
Defrost/Defog	100
Tire Test Methodology	18
Tire Finite Element Models	125
DRIVEM	60
DWI Countermeasures (Under Negotiation)	-
Legal Incentives	100
Insurance Incentives	100
TOTAL	4,763

At the present time, it is very difficult to assess the size of the FY 1983 TSC effort. The programs listed above are long-term in nature and will probably be continued for a 2 to 3 year period, but not at the current funding levels. Every effort will be made to continue to place work of an appropriate nature at TSC.

"DRUNK DRIVING INTERMEDIARIES"

Senator Andrews: The Washington Post recently reported that NHTSA is paying the National Institute for Advanced Studies $167,000 to develop a list of intermediaries such as bartenders, waiters and parking lot attendants, who could be used in a voluntary war on drunk driving. On what basis was it determined that this contract should be awarded?

Response: The primary objectives of this contract are to identify: (1) approaches for motivating people who are strategically in a position to take preventive action to intervene in potential drunk driving situations, and (2) specific types of intervention procedures for use with various types of drunk driver groups/situations. Although the study aims to identify groups which would contain appropriate intermediaries, the study is not directed to develop a list of specific individuals who would be intermediaries, as implied by Question 3 (below). The rationale for this project was based on the expectation that many potential drunk drivers, at some time before getting into their cars, come into contact with persons who could recognize and take action to prevent a potential drunk-driving event. Examples of those types of individuals are bartenders, hosts/hostesses and drinking companions.

Senator Andrews: What indications have you had that this approach might effectively help to fight drunk driving?

Response: NHTSA's "Friends Don't Let Friends Drive Drunk" campaign appears to have increased the acceptability of intervention strategies among friends. A promising extension of this theme is to develop intervention strategies for other target groups as well, thus increasing the potential for intervention in a larger number of situations and across a greater proportion of the public. This initial work with intermediary groups responds to the Transportation Research Board's recommendations that "a better technology base (motivation research) should be developed before proceeding with public information and education programs."

Senator Andrews: Given the regular turnover in many of these professions, how would you plan to keep such a list up-to-date?

Response: NHTSA's work with intermediary groups is not for the purpose of maintaining a list of names. The purpose of the research is to identify approaches for motivating people who are strategically in a position (i.e., bartenders, hosts, hostesses) to take preventive action to intervene in potential drunk driving situations, as well as to specify effective intervention strategies for use with various types of drunk driver groups. The plan is to use training courses and "refresher" courses to ensure that service personnel are "up-to-date" on drunk-driving intervention procedures, despite turnover in these professions. It may be noted, however, that turnover does not necessarily imply leaving the profession entirely; thus, for example, a bartender trained to intervene, would be expected to retain that skill in his next bartending job. Moreover, use of public information messages for "reminder" purposes can help keep service personnel, as well as non-service personnel, informed about their action alternatives for preventing drunk-driving.

Senator Andrews: What incentives would there be for an individual to take such steps as ordering a cab for people too drunk to drive?

Response: The incentives crucial to the success of this program may include appeals focussing on legal liability, avoidance of financial loss, professional ethics, and family loyalty. Community outrage about the drunk driving problem--at or at greater levels than currently seen (e.g., MADD and other "activist" groups)--may provide additional incentives for taking action to prevent a drunk driving incident. The question of specific incentives for individual action in particular situations will be studied in detail and developed further as part of this project.

NATIONAL DRIVER REGISTER

Senator Andrews: In the 1982 Operations and Research Appropriation, Congress provided $1,000,000 and sixteen permanent positions for the operation of the National Driver Register. How are these and any additional resources being used to operate the NDR?

Response: We are currently projecting total obligations of $1.633 million in 1982 for the operation of the NDR. This includes $1.3 million for contractual requirements ($1 million to be allocated from the 1982 appropriation for Operations and Research (O&R) and the proposed use of $.3 million of O&R carryover funds). It also includes $.333 million for salary payments to an average of 12 full-time permanent employees. One part-time permanent position, one full-time temporary position and one student aid will also be used for most of the year.

During 1982 the operation of the NDR will be continued in the current batch mail mode. Our short-term plans are to test and evaluate system changes which could be used if a determination is made to authorize the rapid response system. The "pointer system", however, will not be implemented on a nationwide basis until Congress acts on pending legislative proposals.

Senator Andrews: How will NHTSA's reductions in authorized permanent positions in 1982 affect the operations of the National Driver Register?

Response: Under the 1982 appropriation and the 1983 request for the Operations and Research Appropriation, sixteen authorized permanent positions have been allocated to the NDR. Thirteen of these positions are located in the Office of Driver and Pedestrian Programs, an organizational element of the Associate Administrator for Traffic Safety Programs. Three positions involved in data systems work, are located in the Management and Data Systems Division of the Office of Management Services, an organizational element of the Associate Administrator for Administration.

We are faced with a 14 percent reduction in authorized permanent positions in 1982. This amounts to 111 in authorized permanent positions (from 797 to 686) and associated end-of-year employment ceiling (from 751 to 640). Management of a reduction of this magnitude has dictated a careful analysis of the operation of each program to identify any functions that could be combined, eliminated or streamlined. An underlying consideration in conducting the review was the allocation of the maximum practical level of staff resources to the NDR to permit the improvement of the existing operation and to lay the framework for future modernization. We believe that our present plan to fill twelve of the sixteen authorized full-time permanent positions and to use three other positions in the NDR operation is responsive to that objective.

NATIONAL DRIVER REGISTER

Senator Andrews: Provide for the record, a comparison of contract program funding for the National Driver Register, including appropriation, obligations and expenditures for Fiscal Years 1977-1981.

(The information follows:)

Contract Program Funding
FY 1977 - FY 1981
(dollars in thousands)

	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981
Appropriation	$1,130	$1,200	$1,640	$1,372	$1,587
Obligations	938	1,142	1,028	1,184	1,017
Expenditures	916	1,015	1,008	1,004	757[1]

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[1] These expenditures were recorded as of May 12, 1982. At that time the Accounting Statements also reflected unliquidated obligations of $246 thousand, which when paid, will increase total expenditures to $1.003 million.

Senator Andrews: Provide for the record, an explanation for the deviation between the amounts appropriated and expended for the National Driver Register in Fiscal Years 1979-1981.

(The information follows:)

The reasons for the deviation between the appropriation and expenditure of funds for the National Driver Register in 1979-1981 are explained below. In no instance did the failure to obligate or expend the full amount appropriated for the National Driver Register during those years prevent NHTSA from fully responding to requests from the States for data.

It was initially anticipated that funds of $1.6 million appropriated for the National Driver Register in FY 1979 would be used for the development and implementation of a rapid response system that would be pilot tested in four States. This planned expansion did not take place because the "Surface Transportation Act of 1978," P.L. 95-599, directed the Secretary of Transportation to make a full and complete investigation and study of the National Driver Register. It was determined not to expand the system while the study was being undertaken, and the batch/mail process of operating the NDR was continued at a reduced cost of approximately $1 million.

The difference between the appropriation and expenditure of funds amounted to $632 thousand and the funds were used to help offset employee pay raises ($95 thousand) and to finance two demonstration projects in the traffic safety area: driver education and the 55 mile-per-hour impact program ($537 thousand).

In FY 1980, the difference between the appropriation and expenditure of funds recorded at the end of the year amounted to $368 thousand. Of this amount $159 thousand still remains to be paid to liquidate obligations incurred for the NDR in 1980. Of the balance of $209 thousand, which was excess to NDR requirements, $188 thousand was used to help offset employee pay raises, and $21 thousand was not expended.

In FY 1981, the difference between the appropriation and expenditure of funds recorded at the end of the year amounted to $830 thousand. Of this amount $246 still remains to be paid to liquidate obligations incurred for the NDR in 1981. Of the balance of $584, which was excess to NDR requirements, $30 thousand was used to help offset employee pay raises and $554 thousand was identified as a saving under the Department's Cost Avoidance, Reduction and Efficiency Program.

Senator Andrews: Provide for the record, a comparison of salaries and administrative costs related to operation of the National Driver Register for fiscal years FY 1977 - FY 1981.

(The information follows:)

SALARIES AND ADMINISTRATIVE COSTS

FY 1977 - FY 1981

($'s in thousands)

	FY 1977	FY 1978	FY 1979	FY 1980	FY 1981
Direct Salaries	$293	$288	$291	$307	$314
Administrative Costs	69	70	79	78	53
TOTAL:	$362	$358	$370	$385	$367

Senator Andrews: Provide for the record a detailed breakdown of contract program expenditures for the National Driver Register for fiscal years 1977 and 1978.

(The information follows:)

PROGRAM COSTS

FY 1977 - FY 1978

($'s in thousands)

	FY 1977	FY 1978
Supplies and Equipment	$ 28	$ 22
Data Conversion	79	75
Technical Support	51	82
Computer Services	662	757
Software Maintenance	16	54
System Development Studies	80	25
TOTAL:	$916	$1,015

CONSUMER DEMAND

Senator Andrews: The automobile sales market is dominated today by more "need" buyers, than "want" buyers, which were more common years ago. This practicality would seem to also include the desire for increased safety in today's cars. Do you see auto manufacturers, both domestic and foreign, voluntarily responding to this consumer reaction, particularly in this time of recession with auto sales at the present low levels?

Response: All of the automobile manufacturers, both foreign and domestic, have stated repeatedly that safety is a primary corporate concern in automobile design. However, the marketplace has not historically given safety equal weighting to other purchase considerations. A recent survey shows hardly any change in consumer reaction to safety considerations.

In the December 1981 Automotive Profile of new car buyers, prepared by J. D. Powers and Associates, most consumers interviewed (about 2/3) did not even answer the question about which vehicle they considered to be the safest. Of the one-third that did answer, domestic autos were viewed as being safer than imports by a margin of two to one. Only 10% of the respondents ranked safety as "the most important" new car purchase consideration, placing safety fourth behind dependability (30%), low purchase price (16%) and fuel economy (15%).

Since March/April 1980, the percent ranking safety "the most important" has risen +2 percentage points; but styling and appearance is up +3 percentage points.

At this time, the Agency does not see the marketplace or consumer reaction providing any abnormally strong emphasis on safety.

HIGHWAY SAFETY SANCTIONS

Senator Andrews: The Highway Safety Act of 1966 directed the Secretary of Transportation to withhold all safety grant funds as well as 10% of the Federal-Aid Highway construction funds from any State not having an approved safety program. In the past, these types of penalties have proven to be largely unsuccessful in achieving their goal. What incentives, either in the form of a "carrot" or a "stick" are available today to increase State involvement in problem areas such as drunk driving?

Response: There are no incentives per se. However, we have taken a positive approach towards increasing State involvement in problem areas such as drunk driving by focusing NHTSA's resources in these areas. Staffing and funding resources available to this Agency, the States and local communities require a highly focused approach if we are to have any success. Therefore, our program efforts (manpower and funding) is now directed toward promoting necessary changes in State and community alcohol programs through the careful use of seed monies, technology transfer, technical assistance, training, and networking efforts.

Our program activities have been designed toward catalyzing specific State and local program efforts which will "sell themselves" to other States and communities. Implicit in this approach is the understanding that our resources must be concentrated in carefully chosen "State/community targets of opportunities" where a receptive and positive "climate" exists in order to enhance the possibility of success.

The objective of our State/community targets of opportunity programs is to promote the adoption of a comprehensive, community-based, general deterrence program in selected target States/communities. The program concentrates NHTSA's technical resources (in-house staff, 403 funded contract efforts) on appropriate targets in States/communities that are receptive to implementing comprehensive community-based programs. Participating States/communities are required to commit substantial State/local resources to assist in program implementation. NHTSA resources are then used to promote and assist the selected jurisdiction in improving countermeasure operations (police, courts, licensing, public communications, etc.) improving legislation, developing citizen support, expanding private sector involvement, and implementing a locally coordinated drunk driver deterrence system.

This approach will bring to bear sufficient technical resources to ensure success to a limited number of jurisdictions. We believe that these successes will sell themselves to other States/communities.

We believe that these activities, coupled with the recent evolution of an involved citizen constituency, will produce a significant attack on the drunk driving problem in this country.

402 GRANT PROGRAM

Senator Andrews: Through the Highway Safety Grant Program, NHTSA provides funds to the States for a number of programs, with particular emphasis in 1983 to be on drunk driving. Are there specific programs that you will encourage the States to implement? If so, do you monitor their success?

Response: NHTSA, in cooperation with the States, has identified four programs in addition to the drinking driver as having a high potential for reducing deaths and injuries. They are police traffic services, occupant protection, traffic records and emergency medical services. The States will be encouraged to implement programs in these areas. NHTSA has a program to monitor State 402 activities and will serve as a clearinghouse for transfer of data and success stories nationwide.

With respect to specific alcohol programs, we are advocating State and local task forces to identify problems within the drunk driving system.

We are also advocating: illegal per se, preliminary breath testing, and administrative license sanctions, increased enforcement coupled with specific public information and education, and judicial education for judges. Through these programs we intend to create an environment of general deterrence where the drunk driver perceives a high risk of apprehension and sure and swift sanctioning. In the long-term, we will also be emphasizing prevention/education programs to put in place a societal norm that frowns on drunk driving.

AUTO HOTLINE

Senator Andrews: In 1981, there were over 75,000 calls received on the auto hotline telephone service, with calls requesting recall information. How does this figure compare with the three previous years? How does it compare to the volume of calls received since the hotline was expanded?

Response: The 75,000 calls requesting recall information in 1981 were only a portion of the total calls received by the hotline. The comparison to consumer requested recall information for the past 3 years is:

1980 - 90,000
1979 - 88,000
1978 - 70,000

Since the expansion of the hotline, the average number of callers per day that request recall information is 440. This number compares to 288 per day before expansion.

AUTO HOTLINE

Senator Andrews: How is the Hotline number made available to the public? Are you publicizing the expanded service offered by the Hotline?

Response: When the agency decided to go ahead with the expanded Hotline service, we quickly recognized the need to publicize the number, and the new services available. As part of the program setting up the new service, the Office of Public Affairs and Consumer Participation has prepared a detailed promotional campaign plan, specifying activities to be undertaken to promote the effort. The agency is implementing that plan. It involves such activities as preparation of articles, and special mailings of new pamphlets to writers, editors, Action lines, and consumer organizations. As part of the plan we mention the expanded Hotline in every conversation we have with reporters writing on NHTSA safety and consumer efforts. We are intensely interested in seeing that this program is given wide publicity.

PASSIVE RESTRAINTS

Senator Andrews: One of the reasons against imposing this controversial rule, to require all autos in the U.S. to have air bags or automatic seat belts was that such devices might produce a negative public reaction. What specifically would have prompted such a negative reaction?

Response: Automobile makers could have met the automatic occupant restraint requirements of FMVSS 208 with either air bags or automatic belts. For a number of reasons, all but one manufacturer had made business decisions to use detachable automatic belts in their new cars. These detachable automatic belts probably would not have been any more acceptable to the public than the manual belts which are already in cars and which, unfortunately, are used now by only about one driver in ten.

If the detachable automatic belts were not worn, then they would not have produced anticipated safety benefits. The public might well have resented being required to pay substantially more for the automatic systems. Consumers could have concluded that the automatic belts were providing them with no different freedom of choice about usage or levels of protection than the manual belts currently offered. It is not unreasonable to conclude that the public might have regarded the automatic restraint requirements as an expensive example of ineffective regulation. Worse, because such belts might have been considered a nuisance, consumers might have cut them out of their cars. This would mean consumers would be left with no occupant protection.

Thus, whether or not the detachable automatic belts might have been successful in achieving higher belt usage rates, mandates requiring such belts could have adversely affected public attitudes toward the automatic restraint requirements in particular, and safety measures in general.

Senator Andrews: Another major reason these passive occupant restraints were rejected was the cost involved. If, in the future, these passive restraint systems become more cost effective, will NHTSA review its decision to rescind these safety devices?

Response: If an automatic restraint system became available that was generally acceptable to the public, that would increase usage, that was as effective as current systems when used, and was attractive in cost, the Agency would certainly reconsider whether to require automatic crash protection in new cars.

Senator Andrews: What was the basis that was used to calculate the benefits and costs to determine that passive belt and air bag systems were not cost effective?

Response: All major manufacturers made it clear that, instead of air bags, they planned to use detachable automatic belts to meet the requirements of the automatic occupant protection standard. Thus, in determining the effectiveness of the standard, the Agency had to analyze the costs and benefits of automatic belts.

The data used in calculating the benefits of automatic restraints were based on Agency crash tests and accident files. Agency teardown studies and confidential cost submissions were analyzed and evaluated to develop cost estimates for automatic restraints.

Based on this analysis, the Agency concluded that the ease of detachability of the automatic belts, combined with a strong potential for a negative consumer reaction to these systems, would result in a marginal, at best, increase in actual belt usage.

Under these circumstances, the standard would have imposed substantial costs without offering increased protection over the current manual belt systems.

SEAT BELT CAMPAIGN

Senator Andrews: What criteria will be used to evaluate NHTSA's safety belt education campaign?

Response: Three criteria will be used to evaluate NHTSA's safety belt education campaign. One is the increase of the public's knowledge about the benefits of wearing a safety belt along with the increase of more positive attitudes and perceptions about the use of safety belts. The second is the degree to which the networks have volunteered to participate in the program and have been successful in delivering safety belt information to their membership and to their various constituent groups. Further along in the campaign, a third criterion will be the degree to which both passengers and drivers respond to the various components of the program by actually increasing their use of safety belts.

Senator Andrews: How long do you envision will be necessary for NHTSA's seat belt education program to produce a significant effect on the level of seat belt usage?

Response: Experience of other countries has shown that several years are necessary. Sweden, for example, more than doubled the use of safety belts in about three and a half years with a public information program. Some results may be noticeable in three years, but it probably will be five years before a significant effect on the level of safety belts use can be seen.

Senator Andrews: What kind of cost-benefit analysis has been performed by NHTSA to support the decision to devote such a campaign to increase the use of seat belts? Please provide this information for the record.

Response: The 1976 Needs Study (the National Highway Traffic Safety Needs Report, U.S. Department of Transportation, NHTSA, 1976) indicated that a voluntary safety belt use program could provide the most cost-effective approach for reducing deaths and injuries due to automobile crashes. Estimates have been made of a return on a dollar invested in a safety belt use program from $40 for the most conservative to over $1,000. The wide-range results from the cost of a death or injury used, how many percentage points safety belt use is estimated to increase, and the cost of the program designed to cause that increase. Studies indicate that safety belts have a 50 percent effectiveness in reducing fatalities and a 65 percent effectiveness in reducing moderate-to-serious injuries. When one considers that the fatalities to occupants of cars, light trucks and vans each year amount to 35,000, and that moderate-to-serious injuries occurring to such occupants each year come to 350,000, estimates of economic loss of such crashes of over $10 billion each year are easier to understand. The $9.7 million cost of our program in fiscal years 1981 - 1983 to increase safety belt usage to ameliorate injuries and fatalities cannot, in our opinion, be considered significant in comparison to the estimated economic loss of over $10 billion each year. Our studies show that for every percentage point safety belt use can be increased, 172 lives each year can be saved. NHTSA, as a safety agency, cannot fail to pursue vigorously a program that has the potential of saving up to 14,000 lives a year.

REGULATORY REVIEW

Senator Andrews: Last year, Ms. Steed testified that NHTSA planned to go through its regulations to ensure their focus on the real safety questions and make sure they did not unjustly burden the industry's manufacturers. Can you now share with us those regulations that you reviewed, what revisions have been or are to be made and what each will cost the industry?

Response: NHTSA has been conducting a comprehensive review of its regulations to determine their effectiveness, to assess their benefits and costs and to ensure that they meet the safety and consumer protection goals and objectives of the Congress and the Agency. Several existing regulations have already been reviewed under the Agency's on-going evaluation program and others are included in our schedule for priority reviews. A detailed description of NHTSA's review process and the criteria used for the evaluation of existing regulations, is provided in a recently published report, "Regulatory Reform - The Review Process," March]982 (DOT-HS-806-159).

As it was indicated last year, the Agency's review also included newly issued and proposed regulations. Based on these reviews, NHTSA issued a Notice of Intent on April 6, 1981, in which 17 standards, regulations or regulatory proposals were identified for possible modifications that would reduce regulatory burdens, without jeopardizing safety or the consumer protection responsibilities of the Agency.

Subsequently, the review was completed and action was taken on several regulations as follows:

- FMVSS No. 114, Theft Protection - In response to petitions for reconsideration, this standard was modified on December 21, 1981, as follows: Exempted only walk-in vans from the extension of the anti-theft requirements to light trucks; the new, inadvertent steering column lock-up requirement was eliminated; other minor exemptions were incorporated. The cost savings are expected to be about $1 per car ($10 million per model year) at retail.

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- FMVSS No. 208, Occupant Crash Protection - The Automatic Occupant Protection requirements of FMVSS No. 208 were delayed one year(April 9, 1981) pending a thorough analysis of the standard, necessitated by significant changes in the assumptions and circumstances under which it had been promulgated. Following a comprehensive analysis of the costs, benefits and effectiveness of automatic restraints, the standard was rescinded on October 23, 1981. One of the most important changes was in the manufacturers' decision to abandon the use of air bags in favor of easily detachable automatic belts in meeting the requirements of the occupant crash protection standard. Based on its analysis, the Agency concluded that there would be only a marginal, at best, increase in belt usage over present manual belts as a result of the standard. This was based on a strong indication of adverse consumer reaction to automatic restraints and the easy detachability of the automatic belts which, in effect, made them almost no different from manual belts. Thus, the impact on safety resulting from this action is not anticipated to be significant. Industry capital cost savings realized from rescinding the standard were estimated at $400 million; consumer (retail) cost savings were estimated at $89 per car (or $1 billion per model year (MY)).

o FMVSS No. 128, Fields of Direct View - The Fields of Direct View standard set vision requirements for cars, and proposed standards for trucks and buses. Fields of Direct View was rescinded based on its minimal safety benefits and high costs. The cost to GM and Ford alone was estimated at over $150 million for redesign and retooling. The consumer would have paid $5 to $10 per car. FMVSS No. 128 (for passenger cars) was rescinded on June 22, 1981.

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o Low Tire Pressure Warning - A passive tire inflation pressure indicator could have added about $200 to the cost of the car. Rulemaking on this system was found impractical. The ANPRM was withdrawn on August 24, 1981.

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o Part 575, Consumer Information Regulations - 90 Day Advance Submission of Consumer Information Data - This action allows manufacturers the flexibility to submit consumer information data on last minute changes as late as 30 days prior to new model intorduction, rather than 90 days. The 90 day rule was delayed one year on May 29,

1981. A Final Rule for the 30 day revision was issued on February 18, 1982.

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- FMVSS No. 115, Vehicle Identification Number (VIN) - The requirements for the VIN are proposed to be changed from a safety standard to an administrative regulation. This reduces the potential for recalls and remedies for an inconsequential violation of the standard by the manufacturers. Rulemaking action is possible, pending completion of review.

- Part 575, Tire Reserve Load Information - This requirement produced excessive and unnecessary consumer information. Elimination of the tire reserve load criteria and information requirements will reduce reporting, testing, and recordkeeping burdens. An NPRM to eliminate these requirements was issued September 9, 1981. A Final Rule will be published shortly.

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PROPOSED REORGANIZATION

Senator Andrews: Your 1983 Budget references a proposed reorganization to be initiated in Fiscal Year 1982. What will be the extent of this Reorganization? What is the current schedule of approval and implementation of this proposed reorganization?

Response: The National Highway Traffic Safety Administration's reorganization was approved by the Secretary on April 12, 1982. The description and rationale of the organizational changes are as follows.

a. OFFICE OF ADMINISTRATOR:

Line authority over day-to-day Regional operations is being redelegated from the Deputy Administrator to a newly established position of Director of Regional Operations within the Administrator's Office. This change will provide closer direction over Regional operations than currently exists.

An Executive Staff to the President's Commission on Drunk Driving is being established which will have focal responsibility for insuring that all program guidance and technical support is provided to the Commission in a timely and effective manner.

The functions of the Executive Secretariat are revised to reflect assumption of responsibility for the Administrator's management information system and the provision of support to the NHTSA's Sole Source Review Board and Contract Awards Board.

b. ASSOCIATE ADMINISTRATOR FOR RULEMAKING:

The revisions proposed within Rulemaking reflect the Administration's desire to emphasize increased reliance on market forces in the area of automotive fuel economy, to improve economic analysis of safety performance standards for vehicles and appurtenant equipment, to improve and expand cost and leadtime analyses, and to upgrade the international harmonization of NHTSA's motor vehicle requirements, while maintaining support for a basic overview of the fuel economy standards and responsibility for consumer information and regulations.

- The Offices of Automotive Fuel Economy Standards and Automotive Ratings are abolished, and, in lieu thereof, an Office of Market Incentives is established. This Office will be responsible for:
  - consumer information and regulations under the Motor Vehicle Information and Cost Savings Act and the National Traffic and Motor Vehicle Safety Act; and,
  - The development and maintenance of Fuel Economy Standards.

c. ASSOCIATE ADMINISTRATOR FOR ENFORCEMENT:

Consistent with the changes in fuel economy rulemaking, revisions within Enforcement reflect a merging of the compliance aspects of the fuel economy program into the Office of Vehicle Safety Compliance. Odometer programs are transferred intact to the Office of Defects Investigation.

The Office of Fuel Economy Compliance is abolished. This change better reflects NHTSA's concentration of scarce resources. There are a total of six positions assigned to these functions and it is considered more efficient to transfer them to other elements than to continue a separate office. The functions of this Office are merged into the existing Offices of Vehicle Safety Compliance and Defects Investigation.

d. ASSOCIATE ADMINISTRATOR FOR TRAFFIC SAFETY PROGRAMS:

The proposed revisions within Traffic Safety Programs seek to reorient the highway safety effort toward the selective management of special emphasis programs expected to yield the greatest results in the reduction of traffic accidents, particularly safety belt usage, alcohol, and law enforcement and emergency services programs. This change is consistent with our current rulemaking undertaken at the direction of Congress in the Omnibus Budget Reconciliation Act.

- The Offices of Driver and Pedestrian Programs and Program and Demonstration Evaluation are abolished.

- An Office of Occupant Protection is established to carry out concentrated efforts involving program design, demonstration, review, evaluation and public education in the area of safety belt and child restraint usage. Considerable effort in the highway safety community is expected in this area for the foreseeable future.

- An Office of Alcohol Countermeasures is established. This Office will carry out concentrated efforts involving program design, demonstration, review, evaluation and public education in the area of alcohol countermeasures. This is a national problem where we expect the highest public attention for years to come.

- An Office of Enforcement and Emergency Services is established. This Office will develop and maintain highway safety programs and standards in the areas of Police Traffic Services and Emergency Medical Services. This change maintains visibility in two areas of prime importance and funding emphasis. Also, this is the only place in Government for emergency medical services, now that the Department of Health and Human Services has consolidated EMS funding into a block grant.

- The functions of the Office of State Program Assistance are significantly revised. This Office will now develop and maintain highway safety programs and standards in all areas not assigned to the other program offices.

- A Program Operations Staff is established, reporting directly to the Associate Administrator, with responsibility for providing grant program planning and management guidance to the Regional Offices, States and communities.

- The Office of Vehicles-In-Use is abolished. The maintenance and repair functions are transferred to the Associate Administrator for Rulemaking. Traffic Safety Programs will continue to have responsibility for the Periodic Motor Vehicle Inspection Highway Safety Standard.

e. ASSOCIATE ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT:

Research and Development is consolidating by merging all vehicle safety research into a single office, where it has previously been dispersed among three offices. The combination should facilitate the coordination of related projects and streamline organizational operations. Additionally, by separating out vehicle and behavioral research functions, increased managerial attention will be permitted in human factors research particularly those relating to alcohol and safety belt usage.

- The Offices of Heavy Duty Vehicle Research and Passenger Vehicle Research are abolished, and, in lieu thereof, an Office of Vehicle Research is established. Increased emphasis will be placed on research in the areas of vehicle crashworthiness and crash avoidance.

- The crash avoidance aspects, i.e., occupant/vehicle interaction functions of the Office of Driver and Pedestrian Research are transferred to the newly established Office of Vehicle Research. This change provides for closer coordination of crash avoidance research activities in parallel to the organization of Rulemaking offices; and, provides for increased managerial attention to balancing the driver/pedestrian behavioral research programs with vehicular programs.

f. ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION:

The realignment within Administration separates management and data systems functions from administrative operations. This change, while increasing the span of control of the Associate Administrator by one, shortens lines of communication. It is believed that, by reducing the number of supervisory layers in these program areas, we will assure improved responsiveness to top management.

- The Office of Management Services is abolished.
- An Office of Management and Data Systems is established. This Office will be responsible for planning, developing and directing the management analysis, vulnerability assessment, and automatic data processing programs of the Administration.
- An Office of Administrative Operations is established to provide for planning and directing the general administrative support and technical reference services of the Administration.

RULEMAKING

Senator Andrews: NHTSA's 1983 Budget states that rulemaking offices generate a substantial amount of consumer information. Is it the proper role of the Federal Government to be involved in disseminating information on such things as automotive ratings and fire (sic) grading standards?

Response: A fundamental tenant of this Administration is that we seek and explore means of fostering safer automobiles through nonregulatory means. The New Car Assessment Program, which generates crash test information on new automobiles, is designed to foster safety improvements in automobiles without the need for a mandatory safety performance standard. The experience with the program thus far indicates that it is having the desired affect. The same is true with respect to tire grading standards although some recent information has been brought to light with calls in to question the undue variability that might be associated with the treadwear grading portion of the standard. These programs are examples of ways in which the Federal Government can assist consumers and thereby assist the marketplace in seeking the proper level of protection. We think this is a proper role for the Federal Government.

The statutory base for the New Car Assessment Program is Title II of the Motor Vehicle Information and Cost Savings Act. We are required to develop information on tire grading under the National Traffic and Motor Vehicle Safety Act.

PAY SUPPLEMENTAL

Senator Andrews: How much is your proposed 1982 pay supplemental? When will it be transmitted to the Congress?

Response: The cost of pay raises in 1982, estimated at $1,398,250 for the Operations and Research Appropriation and $199,750 for the State and Community Highway Safety Grant Program, is being absorbed through adjustments in original 1982 appropriations.

NATIONAL SAFETY SABBATH

Senator Andrews: Mr. Peck, what was the extent of NHTSA's involvement in working with the nation's religious leaders to designate the weekend of February 13-14, 1982, as the "National Safety Sabbath"? It has been reported that with $2,800 from your Agency, 3,000 kits, complete with prayers and a message from Evangelist Billy Graham, were sent to religious leaders to promote your seat belt campaign?

Response: As part of NHTSA's National Safety Belt Education Program, NHTSA staff have been contacting a variety of government and non-government organizations. The purpose of the contacts is to enlist the participation of national groups in disseminating safety belt/child safety seat information to each group's natural constituency. In so doing, NHTSA has encouraged interested organizations (e.g., the military, social service groups, educational groups, private industry) to communicate with their particular audiences in the manner, and using the jargon, most familiar to them.

In pursuing this goal, NHTSA has joined with some private safety-minded groups which are already operating safety belt/child safety seat programs. The National Safety Council (NSC) is one such group.

National Safety Sabbath Weekend is an activity developed by the Religious Leaders Division of NSC and has been sponsored by that organization for some years. As a vehicle for reaching the religious community with the safety belt/child safety seat message, NHTSA considered entering into a contractual relationship to promote the use of safety belts through NSC's 1982 Safety Sabbath Weekend. However, NHTSA decided not to enter into the proposed contractual relationship, and reports that the Agency provided money for kits were erroneous. NHTSA worked with NSC solely as a technical advisor to promote the safety belt/child safety seat message. Any contact with "the nation's religious leaders" was properly conducted by NSC and not by NHTSA.

Senator Andrews: A number of people were concerned that this type of expenditure of public money was a violation of our Constitution's requirement for the separation of church and state. Did you obtain counsel's advice on this issue before proceeding? Do you agree with those individuals voicing their concerns that this infringed upon the separation doctrine?

Response: First there was no expenditure of $2,800. Second I believe it entirely proper for NHTSA to provide technical advice to any group who seeks to disseminate safety information to the public.

Senator Andrews: What are your plans for future involvement by the National Highway Traffic Safety Administration in the "National Safety Sabbath"?

Response: NHTSA will continue to furnish safety belt/child safety seat information to all groups, including religious communities, but will not participate in any religious function regarding its use or dissemination.

QUESTIONS SUBMITTED BY SENATOR CHILES

HIGHWAY DEATHS

Senator Chiles: How effective has the Administration's National seat belt use educational program been?

Response: This program has only been underway for a few months, so it is far too early to measure its effectiveness. Experience of other countries has shown that several years are necessary for a safety belt education program to take effect. It is expected that some results will be noticeable in three years, but that it will be five years before a significant effect on the level of safety belt use can be seen. We do find a tremendous enthusiasm for the program on the part of private and volunteer groups. We have already established 86 working relationships, six formal contracts, with eight more about to be concluded, and eight agreements (without formal contract), all for the purpose of promoting safety belt and child restraint usage.

Senator Chiles: How many highway deaths were there in 1980 and 1981?

Response: The highway deaths in 1980 and 1981 were 51,091 and 49,125 respectively.

Senator Chiles: What are the projections for 1982?

Response: It is too early to make a rigorous projection; however, based on early trends, 1982 fatalities may be less than 1981.

Senator Chiles: What is the relative significance of the five major reasons cited above for highway deaths increasing again?

Response: The five factors cited are indeed major reasons for the high level of fatalities. For example, an estimated 44 percent of drivers involved in fatal accidents are intoxicated; only 11 percent of vehicle occupants wear their seat belts and small, light weight cars are making up a large share of the vehicle fleet. However, we cannot say with any degree of certainty that these factors are the primary reasons for the increased number of fatalities between 1975 and 1980. During this time period, fatalities increased by nearly 15 percent - from 44,525 to 51,091 deaths. However, vehicle miles of travel also grew - from 1.33 to 1.52 trillion miles which represents an increase of over 14 percent. Thus, the greater amount of travel alone will account for a large proportion of the fatality increase. In addition, there was a greater usage of higher risk vehicles. For example, motorcycle registrations increased by 15 percent during the period which resulted in fatalities going from 3,189 to 5,143 for an increase of 61 percent. Light trucks which have been found to be inherently more dangerous also gained popularity and occupant fatalities grew at an alarming rate - from less than 5,000 to 7,500 which is an increase of 50 percent.

Traffic deaths including motorcycle and light truck occupants, decreased between 1980 and 1981 and may do so again in 1982. However, fatalities still remain at an unacceptably high level. Also, it is likely that the recent decrease is a short term cyclical change due perhaps to economic conditions and that the long term upward trend will continue as before unless new public and private safety initiatives are implemented.

Senator Chiles: What can the agency do with regard to each of these major causes?

Response: In each of these areas, the agency can do the following:

. Drunk Drivers - If requested funding is received, the agency can continue its efforts on alcohol research and working closely with state governments to raise public consciousness of the risks of driving drunk. Countermeasures must be developed to effectively deal with the drunk driver to mitigate the potential consequences of his or her condition. Recently, President Reagan formed a Special Commission on Drunk Driving to help focus national attention on the need for community action against drunk drivers.

. Widespread Failure to Use Seat Belts and Other Restraints - The current seat belt program of this administration is designed to persuage adults and children to make greater use of existing occupant restraint systems.

. The Mix of Car Sizes - If the planned vehicle research programs of this administration are funded, we will be be able to identify, develop, and evaluate potential vehicle improvements that will alleviate the small car problem.

. Light Trucks and Motorcycles - Research is being proposed which is directed toward improvements in both the vehicles and their operators.

REGULATIONS

Senator Chiles: Last year the Committee was told that there were 51 Federal Motor Vehicle Standards and 19 regulations that were in effect but that these standards and regulations were being reviewed against 6 criteria to determine which ones could be eliminated.

Over the last year what progress has the Administration made to reduce the regulatory burden and what is the estimated financial benefit of this progress to the auto industry?

What impact has this regulatory relief had on safety?

Response: A comprehensive review of existing standards, regulations and outstanding regulatory proposals was conducted by NHTSA initially, to identify any regulatory requirements that imposed regulatory burdens on the regulated industries, without providing anticipated benefits. Based on its initial review, the Agency issued a Notice of Intent on April 6, 1981, in which 17 standards, regulations or regulatory proposals were identified for possible modifications that would reduce regulatory burdens without jeopardizing the safety or consumer protection goals of the Agency. Subsequently, the review was completed on several regulations and data and information submitted to the rulemaking record were thoroughly analyzed. The primary consideration in analyzing potential alternatives was to ensure that the action taken fully meets the safety goals and objectives of the Congress and the Agency. The results based on the completed reviews are as follows:

- FMVSS No. 114, Theft Protection - In response to petitions for reconsideration, this standard was modified on December 21, 1981, as follows: Exempted only walk-in vans from the extension of the anti-theft requirements to light trucks; the new, inadvertent steering column lock-up requirement was eliminated; other minor exemptions were incorporated. The cost savings are expected to be about $1 per car ($10 million per model year) at retail.

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SMALL CAR SAFETY

Senator Chiles: NHTSA is one of the few department agencies that are proposed for increase (from $74,900,000 in 1982 to $81,600,000 in 1983). The primary areas of increase are $1.3 million for enforcement and $3.8 million for research. The research is primarily to identify and analyze small car safety problems. What additional information can be learned that is not already known about the safety problems of small cars? Since this research usually leads to additional regulations and in view of the fact that the Administration is trying to reduce the number of regulations now in effect, why is this additional work being proposed at this time?

Response: The monies restored to the FY 1983 R&D contract program increased the total program amount to $31.7 million. While that obviously reflects an increase, it is still below the FY 1980 and 81 programs funded at $35.6 and $36.8 million respectively. From our perspective, the FY 1982 reduction allowed us time to carefully reexamine overall priorities and to develop a program that meets today's needs.

NHTSA, from available data, determined that the number of passenger car occupant deaths for sub-compact cars was over twice that occurring in full-size cars. With small cars quickly becoming an increasing part of the motor vehicle fleet, it became apparent that the most cost effective approach was to mount an aggressive small car research effort. With smaller vehicles, lifesaving solutions become more difficult and scientific solutions require increased resources.

In order to focus attention on the safety issues involved in this change, a group of closely related R&D studies have now been collected into an integrated "Small Car Program" for FY 1983. This program will (1) quantify the safety impact of projected fleet mix changes, and (2) identify, develop, and evaluate potential vehicle countermeasures. The fundamental thrust of the program will be to focus industry and government safety R&D on issues arising from the projected shift of the fleet toward smaller and lighter vehicles. While the results of this program will not be exclusive to "small cars", the program will emphasize problems that are exacerbated by reduced car size and weight. We anticipate that this will result in greater attention to the "systems" aspects of safety countermeasures.

The Program includes work to define the expected fleet mix, the type of technology planned for cars expected to be in the fleet. These studies will provide the foundation and set the assumptions for much of NHTSA's effort to project and understand safety issues before they become serious problems. Based on these assumptions work will proceed to improve the analytical methodologies used to model safety performance and predict the numbers of fatalities and serious injuries from highway accidents based on the fleet projections and accident performance estimates. To fully implement these projections NHTSA must improve test devices and procedures for crash testing of all car classes to better correlate research/highway performance, and develop specific test procedures for crash and accident avoidance testing of smaller cars.

In recognition of the national need to carry out automobile safety improvement efforts in the most cost effective manner, the development of advanced countermeasures technology is being coordinated with the industry. Research priorities will be jointly established and responsibilities allocated between NHTSA and industry so that individual project plans are comprehensive, complete, and integral with the overall research effort. Such cooperation will reduce any duplications of effort between NHTSA and industry and, therefore, apply available resources more efficiently. Furthermore, if valid highway safety issues can be identified early through modeling projections and forecasts, and if practical corrective technology can be devised by this joint Industry/NHTSA R&D; then improved safety in automobiles may be transferred to the marketplace sooner through voluntary industry actions.

NATIONAL DRIVER REGISTER

Senator Chiles: Through the primary National Driver Register program, a file of drivers whose licenses have been suspended, revoked, cancelled or denied is kept. The Register is used by the various States when they receive a request for a drivers license from an individual moving in from another State. By this screening process dangerous or problem drivers are kept off the road. I understand that $1 million and 16 permanent positions are requested for this program. The Committee also received information last year that the National Driver Register is badly in need of improvements. While the States are very supportive of the program, we have received complaints from Florida and other States that the turn-around time needs to be improved. What efforts are being made to improve the system? Please describe the improvements that need to be made in the system to permit it to be more useful for the States.

Response: The primary deficiency of the National Driver Register (NDR) system is its present lack of electronic service capability. All data are now transmitted by mail and this results in a 10 to 14 day delay in responding to State inquiries. After receiving the NDR furnished data, the State must then request driver information from the State where the record resides. This second step often requires 20 or more days to complete. Also, it is our position that the present NDR, which contains limited substantive information supplied by the States, be converted to a "pointer system" with the States being linked through use of an interstate communications network. Under such a pointer system, the NDR would be only an index for directing an inquiring State to any appropriate State of record. All substantive data on problem drivers would, under such a system, remain the responsibility of the States and would not be contained in the NDR. Driver history summaries would be transmitted electronically from a State of record to any inquiring State for any official action. Because there are risks associated with development of an electronic records exchange system, a pilot type operation involving four States for one year is judged essential. This would limit resource outlays until system effectiveness could be measured. The present system as authorized by Public Law 86-660 would be continued and the data base would be essential for a pilot system operation. Our short-term plans are to test and evaluate system changes which could be used if a determination is made to authorize the rapid response system. The "pointer system," however,will not be implemented on a nationwide basis until Congress acts on pending legislative proposals.

HIGHWAY SAFETY GRANT PROGRAM

Senator Chiles: The proposed funding level for the States' Highway Safety Grant Program is $77 million down from $92.5 million last year. This represents less than half of the past funding levels. Have States indicated to NHTSA that many of the Federally-funded projects will be continued with State funds or will many be discontinued for lack of funds?

Response: NHTSA has received no direct indication from the States as to how many Federally-funded projects will be continued with State funds nor how many will be discontinued. It may be anticipated that in some States and communities where 402 monies have been employed more as operational subsidies than as "seed monies" that there will be a lessening of highway safety activity. NHTSA will try to offset this development by providing guidance and assistance to make such programs self-sufficient to assure their continuation.

Senator Chiles: Have the States indicated that Federal funds could be better spent in areas other than the four designated by NHTSA? (Alcohol Safety, Police Traffic Services, Emergency Medical Services, and Traffic Records.)

Response: In their replies to the Highway Safety Program Rulemaking Docket, the States also identified Occupant Protection as an effective highway safety program area. NHTSA has since added Occupant Protection to the list of high payoff programs. That States are in substantial agreement with the five areas designated is borne out by the fact that a major portion of 402 funding has traditionally supported the areas selected.

SUBCOMMITTEE RECESS

Senator ANDREWS. Thank you very much. The subcommittee is adjourned.

[Thereupon, at 4 p.m., Wednesday, March 24, the subcommittee was recessed, to reconvene at 10:20 a.m., Thursday, March 25.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

THURSDAY, MARCH 25, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:20 a.m., in room 1223, of the Everett McKinley Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senator Andrews.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF DARRELL M. TRENT, DEPUTY SECRETARY OF TRANSPORTATION

ACCOMPANIED BY:
- ROSALIND A. KNAPP, DEPUTY GENERAL COUNSEL
- JUDITH T. CONNOR, ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS
- DONALD A. DERMAN, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS
- ROBERT L. FAIRMAN, ASSISTANT SECRETARY FOR ADMINISTRATION
- LEE VERSTANDIG, ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. This morning we are going to hear from the Department of Transportation, the Office of the Secretary, on their fiscal 1983 budget. We have Darrell Trent, Deputy Secretary, with us today.

My apologies, Mr. Trent, for being late. Unfortunately, I found it impossible to be two places at the same time. We had some key votes in front of the Agriculture Committee, and I came over here as soon as I could.

If you want to, introduce those with you and you can summarize for the record, if you wish, your statement, which will appear in the record in total and then we will get to the questions.

INTRODUCTION OF ASSOCIATES

Mr. TRENT. Thank you very much, Senator. Senator, I will introduce those who have accompanied me today. Judith Connor, who is Assistant Secretary for Policy and International Affairs, is to my right. Mr. Lee Verstandig, Assistant Secretary for Governmental Affairs, is immediately on her right. Mr. Robert Fairman, who is the Assistant Secretary for Administration, is on the far right. On my left is Mr. Don Derman, who is Assistant Secretary for Budget and Programs, and Ms. Rosalind Knapp, who is the Deputy General Counsel.

I will make a brief statement and I would be glad to go to your questions. We are pleased to have an opportunity to appear before your committee again this year to discuss the fiscal year 1983 budget of the Office of the Secretary. On this occasion we come to you with a year of stewardship behind us, and we are ready and proud to account for it. We also want to express our appreciation for the role played by the Appropriation Committees during that year. It was a period of frequent, if not continuous, attention to appropriations issues linked to the program adjustments made as the Department's policies and plans changed with a new administration, and it has required hard work by this subcommittee and its able chairman.

As we look at the Office of the Secretary, we get the sense of the Department of Transportation as a single entity. DOT's nine operating administrations and its Inspector General each interact at various levels of management, but the responsibility for overall coordination and management rests with the Secretary at this level. We have carefully reviewed our needs in the Office of the Secretary to meet this responsibility in fiscal year 1983 and have developed the two appropriations requests now before you, totaling $49.5 million.

SALARIES AND EXPENSES REQUEST

For the salaries and expenses appropriation, which provides for the overall management and direction of the programs of the Department, we are requesting $41.7 million, an increase of $7.1 million over fiscal year 1982. Of this increase $4.2 million represents the transfer of funding responsibility for the Minority Business Resource Center from the Federal Railroad Administration to the Office of the Secretary. The remaining increase of $2.9 million is attributable to increased costs, including the cost of recent pay raises not yet reflected in the fiscal year 1982 budget, and the annualization of new administration costs associated with the addition of the Maritime Administration to the Department.

In staffing, we are requesting no new positions, but the 10 positions assigned to the Minority Business Resource Center in the Office of the Secretary will be converted from reimbursable to direct funding. The Minority Business Resource Center was transferred to the Office of the Secretary in August 1980 in order to better assist minority business firms in securing contracts on federally assisted transportation projects. Our fiscal year 1983 proposal simply moves the funding to where the program has been operating. Excluding this conversion of 10 reimbursable positions to direct funding, the staffing request for salaries and expenses is 57 fewer authorized positions than provided in fiscal year 1981.

In the organization of the Office of the Secretary, efficiencies have been achieved without eliminating any essential functions. This has been accomplished by merging five offices into three offices under the Assistant Secretary for Governmental Affairs and also under the Assistant Secretary for Policy and International Affairs. Under the Assistant Secretary for Administration, consolidation has resulted in the elimination of one of the two Deputy Assistant Secretary positions.

RESEARCH AND DEVELOPMENT REQUEST

For the transportation, planning, research and development appropriation which provides for the contract studies and research done in support of analysis, planning, and policy development in the Office of the Secretary, we are requesting $7.8 million. This represents the restoration of this function to the minimum level we consider necessary for research and policy studies. In fiscal year 1982, we allocated funds available to the OST in such a way as to minimize personnel reductions by decreasing the T.P.R. & D. account. While this request is a $4.4 million increase over the fiscal year 1982 appropriation, it still represents a 20-percent reduction from fiscal year 1981.

The staffing request of 36 authorized positions for this appropriation is unchanged from the 1982 level, but it represents a 14-percent reduction from 1981. The requested level is necessary to design, monitor, and properly utilize the contract research studies which provide the additional perspective needed in the development of legislative and/or policy positions taken by the Secretary.

The primary focus of the 1983 request for research and policy analysis is in the continuing assessment of the impacts on the public and private sectors of both the administration's new transportation policies and the programs and regulations that have been with us for some years. Other issues for which we will be seeking solutions are the economic viability of the transportation industry, international aviation policy and trade, and the development of equitable user fees. We will continue to monitor and assess the effects of the deregulation of the transportation services on both the industry and the consumer.

WORKING CAPITAL FUND

No separate appropriation is required for the working capital fund, but a limitation of $74 million is proposed. This fund, as you know, provides for the maintenance and operation of common administrative services in the Department. The fund is comprised of assessments made against other appropriations based on the actual costs of services performed. Because of its efficiency, this centralized approach to administrative services is used extensively throughout the executive branch.

As the Secretary noted when he appeared before you on March 9, we are fulfilling the President's goal of reducing the size of the Federal

Government without adverse effect on the quality of service and safety. Size of staff and the organization of it to accomplish our responsibility are primary indicators of this success.

In OST, staffing has been reduced from approximately 1,106 full-time permanent employees actually onboard immediately before this administration took office to 962 this month, a net reduction of 13 percent, even after accommodating transfers of functions from other agencies.

Mr. Chairman, this concludes my opening statement on our 1983 budget request. We will be glad to answer any questions you or the committee members may have.

SALARIES AND EXPENSES INCREASES

Senator ANDREWS. Mr. Secretary, your administrative account budget request for the Office of the Secretary of Transportation appears to have increased by about 20 percent from its fiscal year 1982 level. In a time when everyone is cutting back, this request looks a little out of order.

What is the reason behind this increase? What portion of the increase is attributable to your assuming the Minority Business Resource Center?

Mr. TRENT. In the Minority Business Resource Center, we actually reduced from about $7.1 to $4.2 million the amount that was in that program. The remaining amount, the $4.2 million, is being transferred to the Office of the Secretary, and funding for that function, as I had noted, was previously in the Federal Railroad Administration.

The second would be the increase in salaries and expenses that include annualization of Marad costs of $400,000 and the Pay Act increases of $1.8 million. If you take those out, basically, I think you are talking about a 2-percent increase for general price level changes in selected objects.

Senator ANDREWS. The Office of the Assistant Secretary for Policy and International Affairs has just undergone a reorganization. The Senate included report language regarding your need to adjust to reduced levels but also identified international aviation and maritime affairs as possibly needing increased attention in the future.

Have these concerns been given added attention in this reorganization?

Could you briefly describe the reorganization, the reason behind it, and what you hope to accomplish with this new arrangement?

Mr. TRENT. Yes; I think they have. I think the structure of the organization provides us an opportunity to perform the functions of that office and enable better and perhaps more efficient operation than existed in the past. I might ask Mrs. Connor to comment on the structure.

Senator ANDREWS. And in commenting on it, would you briefly describe the reorganization, the reasons behind it, and what you hope to accomplish?

POLICY OFFICE REORGANIZATION

Ms. CONNOR. Yes, sir. I think it was our own view that the office was too large and had come to take a life of its own, which wasn't consistent with our intended role of the Office of the Secretary, so we reorganized by cutting out the program offices as opposed to policy advisory offices. We reduced the number of offices from five to three and heightened the importance of each of those remaining, particularly the international office. It has been strengthened as opposed to——

Senator ANDREWS. With the elimination of the Office of Environment and Safety and the redistribution of these responsibilities to other offices within the Office of the Secretary for Policy, was it your intention to diminish the priority given to safety and the environment within the Office of the Secretary?

Ms. CONNOR. No; it was not. I had the opportunity of supervising this function between 1975 and 1977, at the time it was growing in importance. It was our judgment that the Department's operating administrations have now strengthened both their expertise and procedures for handling environmental impact statements, and that there is no longer a need for the Office of the Secretary to have routine involvement in the environmental clearance for individual projects.

We will retain oversight of the policy development and implementation in environmental activities, and we will retain the option to call up impact statements for review if needed on an exception basis. That would provide what I consider a better opportunity whereby the Secretary and his staff can be a resource in the event the process itself does not resolve issues.

Mr. TRENT. Mr. Chairman, I might add to that that Secretary Lewis and myself will continue to monitor very closely the environmental affairs activities of the different modes, and we will continue to rely on the Office of the Assistant Secretary for Policy and International Affairs to make recommendations on those issues that should arise. There will not be the need for as much emphasis on environmental policy. It will be an added responsibility of the operating administrations.

Senator ANDREWS. You feel these concerns will receive proper attention?

Mr. TRENT. We will continue with them.

PERSONNEL REDUCTIONS

Senator ANDREWS. Can you describe the RIF's that have occurred in the Office of the Secretary and the guidelines that you have established for implementing the reductions?

Mr. TRENT. For a number of reasons, Mr. Chairman, we have in the period of this last year made substantial reductions in all of the levels of the Office of the Secretary. Part of that relates to funding requirements. Part of it relates to management improvements that would add to the efficiency of the Office.

In April 1981 the Office of Personnel and Training conducted substantial reviews of the different divisions in the Office of the Secretary. We have taken those steps in trying to improve our management structure in the Office of the Secretary permanent staff functions so that they perform functions better for us. I think in the overall management perspective we attach more responsibility to the line operations than perhaps had been true in the past. We intend to maintain a balance between line and staff. For those people that have been RIF'd and have had their employment discontinued, we provide various services so that we can help them relocate and find other positions.

Senator ANDREWS. So you did provide RIF guidelines for the operating modes?

Mr. TRENT. Yes.

Senator ANDREWS. It doesn't appear as though the modes have implemented the reductions in a uniform manner, according to the information we have. Is that the case?

Mr. TRENT. I think each mode has been treated in an individual and separate way.

Senator ANDREWS. If you have an overall guideline, how can you then go into each mode and treat them on an individual and separate basis?

Mr. TRENT. The overall guidelines in working with the Office of Management and Budget, as well as our internal management practices, have provided different emphasis on different departments for the continuation of their responsibility and added responsibility that they would have during this coming fiscal year as well as the current fiscal year.

For example, where we have delayed new starts, we have changed very much the structure and the necessity for that department to continue to perform the functions to prepare for the new starts as they have in the past. So revisions have been possible in that area. The FAA has had a substantial change of emphasis because of the air traffic control strike recovery situation that developed and also because of planning for the new air traffic control system.

RESTORATION OF FUNDING FOR SELECTED FUNCTIONS

Senator ANDREWS. How would you respond, for instance, if Congress decided to put money back in certain functions? Would they then have to go out and hire all new people, inexperienced people, and start all over again?

Mr. TRENT. It would require a change of emphasis, and we have tried to equate the program levels of the different departments with the implementation and staff.

Senator ANDREWS. Now, that is fine, but you are trying to tie it in with the reductions you have undertaken, but Congress reviews those reductions. They make those reductions possibly greater in some areas and they may negate them in other areas.

Don't you feel that there is some merit to wait until after you have seen what the Congress does on these budget requests before you go ahead with your RIF's and end up with nobody minding the store?

Mr. TRENT. I think as we proceed with each of these changes, we do try to coordinate with the Hill to the extent that we can with the planning process. We did try to equate the guidance that we have already received from you from the fiscal year 1982 appropriations process and authorization process. Our cutbacks are responsive to those appropriation levels rather than in anticipation of 1983 levels.

Senator ANDREWS. So you are telling us that you are not going to get caught short?

Mr. TRENT. It is not our intent. We are doing everything we can to plan for continuing to function in fiscal 1983 that way and our budget does not propose any significant staffing reductions in 1983.

Senator ANDREWS. Now, the Administrator of the Research and Special Programs Administration indicated that his agency would be going through a reorganization which might result in a transfer of RSPA duties to other parts of the Department.

What role has the Office of the Secretary of Transportation played in analysis of the need for such a change and what responsibilities currently lodged with RSPA might fit into the duties performed by the Office of the Secretary?

Mr. TRENT. A large part of the overall review process of the different modes has already taken place. We are reducing the planning and some of the support sections that had been in existence as part of RSPA for about 3 or 4 years before we began our fairly detailed review. At the present time what we have done is impose a reduction on RSPA that is not unlike reductions that have taken place in the other areas. We have done it with the full awareness of our commitment to the program responsibilities of that administration, and we think we can maintain a basis for the continuation of those program functions. As to the continuation of RSPA or the changes that might or might not be made, that is still under review and will be something that we will be looking at through the spring period.

NEW FEDERALISM PROGRAM

Senator ANDREWS. What role is the Office of the Secretary playing in the development of recommendations for the implementation of the President's proposed new federalism with regard to transportation programs?

Mr. TRENT. We have studied very carefully the general direction that the President has set. We are looking forward to the new federalism. We are anxious to identify those programs and those areas where it is possible to pass them to States and local governments so they can be better carried out and more effectively managed.

Senator ANDREWS. Do you have a list in your shop identifying those programs?

Mr. TRENT. The programs that were identified by the President included the ADAP program and major elements of the highway program. I can submit the full list for the record.

Senator ANDREWS. Could you provide for the record that list and how you think they will function out in the field and what source of funding you will intend to transfer with the program responsibilities?

Mr. TRENT. The President had earlier identified the general framework, but many specifics have yet to be worked out.

Senator ANDREWS. We would like you to identify the general framework as it applies to your Department and what refinements your Department may have put into the overall scheme. Identify those changes such as program transfers and funding transfers, and how such changes might be implemented.

[The information follows:]

DOT PROGRAMS IN FEDERALISM INITIATIVE

The following DOT programs were initially identified to be included in the turnback program: FHWA—Primary, urban, rural, bridge, other—$2.98 billion; UMTA—Capital and operating grants, Interstate transfer, and Washington Metro—$2.9 billion; FAA—Airport grants—$450 million; and NHTSA—State and local safety grants (402)—$100 million.

During the fiscal years 1984–87 period DOT will continue to administer the affected programs. Funds will be allocated through existing formulas. Each program will maintain its separate identity and be subject to Federal requirements. The allocation implications for a largely discretionary program like UMTA's section 3 are not clear, but the object is to continue each State's and locality's historic funding share. States can elect, through enactment of a State law, to opt out of individual categorical programs and receive turnback funds as a super revenue-sharing payment. If a State chooses this option, funds associated with the categorical programs it has opted out of can be used for any purpose. Beginning in fiscal year 1988, the dollars associated with those programs included in the turnback will be phased out 25 percent each year with zero Federal funding in fiscal year 1991.

The President has presented a framework within which the goal of achieving a proper balance between Federal actions and State and local activities can be achieved.

The principles associated with the President's proposal are well established, for example, that transportation programs which should be under the control of State and local jurisdictions be subject to decisions by State and local officials. The mechanisms associated with implementing that concept, such as exactly which programs will ultimately be involved and how funds will actually be transferred, are not definitely established.

In order to be able to explain this new and much-needed adjustment in the size and authority of Federal Government, certain grant programs and the grassroots trust fund have been described. These details, while necessary for planning and analysis, are subject to change as the President discusses his program with interested parties.

HAZARDOUS MATERIALS TRANSPORTATION

Senator ANDREWS. The coalition of State and local organizations and industry representatives have expressed to the committee their concern that hazardous materials transportation is getting less attention by the Department. Their concerns seem to be that, one, regulations need to be updated to reflect improved technology; and, two, States and localities do not have the expertise to assume enforcement or cleanup duties.

Yet we have had problems with tankers getting involved in accidents and everybody is standing around, not knowing what to do; and a host of other examples, some that could be far more dangerous. Yet the Department is proposing to give the States and localities these responsibilities and at the same time eliminate funding for regional training facilities.

As an office which has oversight duties for the entire Department, what is your assessment of the coordination of hazardous materials regulation and enforcement responsibilities among the various modes?

Mr. TRENT. We have had a working group that has been reviewing the implications of the responsibilities in that area. The hazardous material responsibilities came to us in 1967, I believe, and at that time we began to look at all of the different rules and regulations related to that and begin to pull them together. We think we have made a substantial start in developing a structure.

The Secretary and I are interested in being sure that we continue to carry out our responsibilities, and we have changed a number of recommendations that we have considered about cuts and reductions in that area, so we think we will be maintaining an organization and work for the part that should be taken by the Government. I might ask Bob Fairman, who has worked very carefully on that disclosure, to comment.

Mr. FAIRMAN. Thank you. One of the things, Mr. Chairman, that we have been doing in that area is moving from design specifications to performance specifications, and the concern about whether regulation is lagging behind the technological change is significantly minimized as we move to the performance specification approach. And while we implement this strategy what we have been doing in the interim is issuing regulatory exemptions in those areas. We have tried to maintain the regulations at the same level with the changes in the technology, and when the Materials Transportation Bureau was formed, the function was to integrate and coordinate the regulations that were developed by the individual modal organizations that have the responsibility for the hazardous materials that affect their mode. So we think that we have a coordinated hazardous materials operation, and we think we are keeping the regulations up with the changes in technology.

Senator ANDREWS. Why don't you provide for the record a little bit more detail, since we have had these inquiries and since there are concerns out there that this thing seems to be drifting more into limbo than we would like to see?

We have had several of the safety groups up and some of them have made a rather dismal showing at our earlier hearings. I would hope that we are not letting too much of this responsibility fall through the cracks.

[The information follows:]

HAZARDOUS MATERIALS PROGRAM COORDINATION

In 1975, the Hazardous Materials Transportation Act—HMTA—granted the Secretary full control of the Department's hazardous materials program with authority to set departmentwide regulations. Exercising the new authority granted by the HMTA and existing authority under the Natrual Gas Pipeline Safety Act of 1968, the Department established the Materials Transportation Bureau—MTB.

The creation of MTB brought about the most complete centralization of hazardous materials transportation safety regulatory activities in the Nation's history. MTB was given exclusive responsibility for: Development and issuance of safety regulations governing the transportation of hazardous materials by all modes, except bulk-by-water; representation of the United States at meetings of international standards-setting bodies concerned with transportation of hazardous materials; development of training programs for Government and industry personnel involved in hazardous materials transportation; and collection, analysis, and dissemination of information concerning hazardous materials transportation.

The only function which was not assigned exclusively to MTB was enforcement because consolidation of this activity was simply not efficient. The Department's modal administrations all had enforcement programs which would have continued regardless of who exercised enforcement jurisdiction over the hazardous materials transportation safety regulations. Therefore, rather than duplicating the enforcement capabilities of the modes and thereby subjecting the transportation industry to yet another body of Federal inspectors, the Secretary delegated enforcement authority to each of the modal administrations for those hazardous materials transportation safety regulations affecting the respective modes. MTB was delegated enforcement authority for those regulations governing pipeline safety and intermodal transportation—for example, container manufacturing standards.

All hazardous materials program functions except enforcement are centralized in MTB with a single planning, budgeting, and management process. Enforcement, while budgeted and managed along modal lines, is planned through extensive departmental coordination. For over a decade the Department has held monthly intermodal hazardous materials meetings concerning matters affecting hazardous materials regulation. Recently, the increase in the Department's hazardous materials inspection and enforcement activities prompted MTB to establish a separate monthly intermodal meeting on enforcement issues alone. Items covered at these meetings include: Recent interpretations affecting enforcement of the regulations; coordination of inspections by each administration to prevent duplication of effort; and problems arising from specific cases, court decisions, etc., that could affect future actions.

Despite this effective coordination of departmental enforcement activities, there is clearly a limit to the extent that they can increase their impact on the millions of hazardous and radioactive materials shipments which take place each year. We believe that the solution lies not in the creation of an immense Federal inspection force but in the application of leverage possible throught the use of existing enforcement agencies.

Therefore, in 1973 MTB and the Nuclear Regulatory Commission jointly initiated a program under which States would monitor radioactive materials shipments and report volume observed and apparent safety violations found. The effectiveness of State personnel in locating radioactive materials safety violations indicated that equal success could be expected with regard to other hazardous materials. Moreover, since the State personnel were trained and on-site, the benefits of a program shift from monitoring to enforcement were obvious.

Therefore, in 1981 MTB initiated a State hazardous materials enforcement development program. By contractual agreements, MTB provides technical and financial support to States which have enacted legislation providing for State adoption of the Federal hazardous materials transportation safety regulations. The assistance enables States to develop enforcement capability within their existing public safety agencies, for example, the highway patrol. The objectives of this program are twofold. By providing incentives for State adoption of the Federal regulations, it will go far to establish a single uniform national set of safety standards for industry. This will enable MTB to protect industry from inconsistent Federal and State requirements while at the same time fostering Federal-State cooperation rather than the confrontation of preemption proceedings. The program will also result in increased monitoring of hazardous materials transportation by existing personnel at the State level.

In conclusion, the Department has organized the hazardous materials transportation safety program in a manner which enables it to achieve maximum consolidation of program control consistent with efficient resource utilization in achieving its dual objectives of: (1) Minimizing the public safety risk inherent in the transportation of hazardous materials by all modes; and (2) reducing the regulatory burden on commerce to the maximum extent consistent with public safety.

SUBMITTED QUESTIONS

Senator ANDREWS. Mr. Secretary, I have some questions for the record. Some of our other colleagues on the committee also have some questions for the record.

Again, we will ask you to answer those questions for the record.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

WORKING CAPITAL FUND

Senator Andrews: Please provide a description of the Department's Working Capital Fund, including a breakout of the amounts spent for the various services provided for each of the Modal Administrations.

Response: The Working Capital Fund is a self-sustaining revolving fund. It was created to finance common administrative services that are centrally performed in the interest of economy and efficiency.

Services provided are charged for at rates that return in full all operating expenses. Accordingly, there is no profit or loss from operations.

A breakout of amounts to be spent for the various services follows:

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WORKING CAPITAL FUND
($ in 000)

FY 1983

	FHWA	NHTSA	FRA	UMTA	FAA	USCG	MARAD	SLS	IG	RSPA	OST		NON DOT	
											R&D	S&E	NTSB,NTIS CAB,IRS,EPA	TOTAL
Publishing & Graphics:														
Printing...............	$2,019	$1,646	$ 719	$ 484	$5,894	$5,327	$ 291	$ 16	$ 77	581	$ 90	$1,083	$ 699	$18,926
Graphics...............	417	480	362	77	574	572	86	11	5	83	1	250	38	2,956
Photo..................	162	68	143	19	204	225	22	3	5	20	5	102	28	1,006
Transportation Computer Activities:														
Transportation Computer Center.................	4,547	877	32	1,209	604	5,714	1,034	—	130	5	—	675	—	14,827
Time Sharing...........	48	5,700	4,810	1,558	10,490	1,714	96	6	390	241	164	335	—	25,552
Library..................	404	250	180	123	782	841	314	—	62	91	11	205	91	3,354
Support Services:														
Travel & Imprest.......	42	14	22	10	106	99	20	—	4	10	—	40	13	380
Central Employment Information Office....	11	26	38	6	52	24	14	11	—	7	—	22	5	216
Warehouse..............	120	150	50	30	270	160	—	—	—	29	—	142	34	985
Transportation.........	19	13	10	7	38	43	42	—	5	5	—	360	5	547
Parking Management.....	45	25	16	13	80	86	22	—	6	9	—	33	17	352
Mail & Messenger.......	183	104	79	57	421	394	164	2	26	40	—	130	19	1,619
Management Information Center.................	1	2	3	3	4	2	7	1	—	3	—	67	16	109
Facilities Management..	346	208	161	115	463	600	167	2	47	70	—	199	118	2,496
Health & Fitness Center	76	46	49	22	150	163	47	—	6	17	—	52	12	640
TOTAL	$8,440	$9,609	$6,674	$3,733	$20,132	$15,964	$2,326	$ 52	$ 763	1,211	$271	$3,695	$1,095	$73,965

OST PLANNING, RESEARCH AND DEVELOPMENT

Senator Andrews: Please provide a description and the dollar amount of the contracts issued under the transportation planning, research and development account for FY 1981 and those awarded to date in FY 1982.

(The information follows)

Office of the Assistant Secretary for Policy and International Affairs

FY 1981 to date ($s in thousands)	AMOUNT
Multiyear Analysis of Waterway User Charge	$29
Study Cost-Effectiveness Stationary and Mobile Sources and Transportation Controls to Improve Air Quality	32
Increased General and Administration Costs	7
Truck Size and Weight Studies	151
Additional Funding for Close-Out	4
Federal Transportation Financial Data Base	35
Transportation Aspects of Energy Problems	95
Committee on Challenges to a Modern Society Transportation Studies	10
Interpretation Services	15
Support Transportation Related Activity	30
Shipper Receiver Mode Choice	45
Urban Waterfront	10
1982 National Travel Survey	50
Truck Inventory	50
Enhance 81 Census	50
National Conference for Bicycle Specialist	35
Coal Trade Study	2
Planning for Urban Goods Movement & Economic Dev.	100
Coal Slurry Study	50
Design Improvement Program	75
Transfer of Funds for Departmentwide Research/ Awards Program	9
Design Arts Program	85
Regional Port Study	80
Training in Hispanic Affairs	100
Coal Study Work	20
Interpreter Service	11
Methods for Economic Assessment of Transportation Industry	105
Airline Jet Fuel Prices at Foreign Stations	14
Impact of Inland Waterway User Taxes	88
Impact of Telecommunications	40
Uniform Rail Cost System	23
Application of Automated Clearing House Technology to Airline Ticket Development	16
Changes in Location Behavior and Travel	60
Public Port Financing	50
Study on Examples of Discrimination Under Collective Motor Carrier Ratemaking	20

TITLE	AMOUNT
Impact of Rate Deregulation on Port Equalization and Development of East Coast	10
Evaluate Joint Trackage and Reciprocal Switching Agreements to Improve Rail Performance	68
Urban Transit Investment	85
Establish Committee for Review of Analytic Procedures	19
National Transportation Needs Study Report	235
Research on Structure Auto Aftermarket Industry	24
Cost Recovery on the Inland Waterways	150
DOT International Symposium on Transportation Systems Performance	81
Study of Intercity Bus Operations	47
Coal Exports Analysis and Report	28
Study of DOT 504 Implementation	6
Transportation Energy Policies Project (TSC)	200
Regulatory Research (TSC)	650
International Airlines Passenger Data (TSC)	186
Intercity Bus Information Project (TSC)	74
Airline Data Reporting and Analysis (TSC)	106
Transportation Fire Safety (TSC)	100
Impacts/Truck, Size & Weight Limits (TSC)	74
Transportation Petroleum Forecasts (TSC)	9
Chrysler Loan Board Support (TSC)	70
Automotive Industry Analysis (TSC)	400
Railroad Industry Restructuring TSC)	--
Strategic Planning Analysis (TSC)	5
Airframe & Aircraft Engine Mfg. Industry Anal. (TSC)	105
Regional Industrial Analysis (TSC)	114
Assessment of Economic & Regulatory Factors in U.S. Transit Bus Industry (TSC)	90
Maritime Industry Analysis (TSC)	150
National Travel Survey Enhancements (TSC)	20
Safety Policy Analysis (TSC)	50
	$4,752

FY 1982 to date
($s in thousands)

Impact of Motor Carrier Act on Freight Rates	4
Study of the Impact of the Motor carrier Act of 1980 on Quality of Service	5
Truck Cost and Revenue Indices	3
U.S. Bilateral Shipping Agreements With Brazil and Argentina	10
Data on Bankrupt Motor Carriers	6
Interpreting Services	10
Teleprocessing International Aviation Statistics	35
Truck Size and Weight Study	45
Inland Waterway User Charge Study	45
International Motor Carrier Problems & Issues Relating to Mexico	20
Incentives for Non-Motorized Travel	7

FY 1982 (Continued)	AMOUNT
Development of Vehicle Miles of Travel Forecasting Model	17
Cost Benefit Analysis of Airline/Aircraft Manufacturer Use of CAB Data	5
Regulatory Research (TSC)	110
International Passenger Data Program (TSC)	135
Airline Data Reporting and Analysis (TSC)	65
Impacts/Truck Size and Weight Study (TSC)	60
Automotive Industry Analysis - Transfer to DOC	300
Maritime Industry Analysis (TSC)	50
Intercity Bus Cross-Subsidization Project (TSC)	15
	$947

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

FY 1981
($s in thousands)

Automotive Ratings Program Evaluation	113
Service & Methods Demonstration Evaluation	77
FAA Operations Program Evaluation Reference Base	40
Bureau of Motor Carrier Safety Evaluation	199
Puget Sound Safety Study	55
Transportation Investment Studies	40
Urban Policy Evaluation	60
	$584

FY 1982 to date
($s in thousands) NONE

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

FY 1981
($s in thousands)

Intermodal Planning Assistance/State & Local Government	$ 50
Direct Technology Sharing Assistance	115
State & Local Needs Definition	15
Technology Sharing Document Preparation	120
Urban Consortium/Innovative Technology Sharing	75
Hazardous Materials Guidebook	10
Technology Sharing Training Packages	50
White House Aging Project	20
Intergovernmental Personnel Assignment	35
	$490

FY 1982 TO DATE

Intermodal Planning Assistance/State & Local Government	$118
Direct Technology Sharing Assistance	25
Technology Sharing Document Management & Distribution	24
	$167

RELATIONSHIP WITH INSPECTOR GENERAL

Senator Andrews: How would you describe the relationship between the Office of the Secretary and the Inspector General's Office?

Response: Relationships with the Office of Inspector General are excellent. The Inspector General participates in the senior staff conferences with the Secretary, his senior officials and all the modal administrators, and has direct input into this senior policy-making forum.

Senator Andrews: Has OST been the subject of any investigations by the Inspector General's Office?

Response: Elements of the Office of the Secretary have been investigated 28 times since the Office of Inspector General was created.

Senator Andrews: Have you found the recommendations of the IG's Office to be useful?

Response: Specific reports are furnished by the Office of Inspector General (OIG) upon request to be used in developing budget programs. The Deputy Secretary receives from the OIG an Annual Report of unresolved findings over 6 months old. Heavy reliance is placed on the evaluations of the statements of corrective actions. Disputed items are dealt with at the Deputy Secretary or Special Assistant level. The Inspector General is a member of the Cost Avoidance, Reduction, and Efficiency Committee (CARE). The OIG staff validates reports submitted to this Committee by the administrators. These reports identify goals to be met for improving management efficiency and provide specific examples of how these efficiencies were accomplished.

OFFICE OF THE ADMINISTRATOR APPROPRIATIONS

Senator Andrews: Please provide for the record, for every administration within the Department, draft bill language which would create a separate line-item appropriation for the Office of the Administrator/Commandant. Include object class breakdowns, back-up, and prior-year detail, and new language and supporting material for the "operating" accounts where offsetting adjustments will need to be made. Committee staff will be available to answer any questions you may have about this formulation.

Response: The requested information will be furnished to the Committee.

POSITIONS AND EMPLOYMENT

Senator Andrews: Please provide for the record a comparison of the authorized positions and the number of people employed for FY 1981, FY 1982, and those projected for FY 1983. This information should be provided individually for each of the offices of the Assistant Secretaries, the General Counsel, and the Immediate Office of the Secretary.

(The information follows:)

Office of the Secretary
Comparison of Authorized Positions and Employment

	FY 1981 Actual		FY 1982 Estimate		FY 1983 Estimate	
	Auth Pos.	EOY Emp.	Auth Pos.	EOY Emp.	Auth Pos.	EOY Emp.
Salaries & Expenses						
Secretarial Offices	144	125	133	128	143	138
Governmental Affairs	44	41	41	40	41	40
Policy & Int'l Affairs	111	108	101	98	101	98
Budget and Programs	56	43	47	45	47	45
General Counsel	63	59	59	56	59	56
Administration	189	171	169	163	169	163
Total S&E	607	547	550	530	560	540
Reimbursable						
Secretarial Offices (MBRC)	19	8	10	10	--	--
Policy & Int'l Affairs	28	12	24	23	24	23
General Counsel	6	6	6	6	6	6
Administration	48	45	43	43	27	27
Total Reimbursable	101	71	83	82	57	56
Alloc. from Inspector General	3	3	--	--	--	--
Transportation Planning, Research, and Development						
Policy & Int'l Affairs	42	33	36	29	36	29
Working Capital Fund						
Administration	469	433	420	400	436	416
Total OST	1,222	1,087	1,089	1,041	1,089	1,041

NOTE: EOY employment numbers for 1982/83 are levels authorized by OMB. It is the Secretary's intention to stay substantially below these levels.

IMMEDIATE OFFICE OF THE SECRETARY STAFFING

Senator Andrews: A comparison of 1980 vs. 1981 permanent positions in the Immediate Office of the Secretary, the Deputy Secretary, and the Executive Secretariat provided in last year's House hearings show a total increase of three positions in 1981. These figures were provided after the testimony indicated that you were opposed to building a layer of staff between the operating modes and the direct staff responsibilities in the Office of the Secretary (page 27 of Part 7 - House Hearings). Please provide a similar comparison for FY 1980, FY 1981, FY 1982, and budget request for FY 1983.

(The information follows:)

Special Assistants in Permanent Positions

	End of FY 1980 Actual	End of FY 1981 Actual	Middle of FY 1982 Actual	End of FY 1983 Estimate
Secretary's Immediate Office				
Secretary	1	1	1	1
Special Assistants	4	3	3	3
Secretaries	4	3	3	3
Other	3	7	6	6
Subtotal	12	14	13	13
Deputy Secretary's Office				
Deputy Secretary	1	1	1	1
Special Assistants	2	3	4	4
Secretaries	4	4	3	3
Other	1	2	2	2
Subtotal	8	10	10	10
Executive Secretariat	19	20	17	17
Regional Representatives	20	12	12	12
Total	59	56	52	52

DOT RESEARCH AND DEVELOPMENT

Senator Andrews: Please provide for the record, showing by administration, the percent of their total request which is for research and development activities for FY 1983, the percent of total request for each administration relative to the total request for the Department for FY 1983, and the percent that each administration's requested research and development program represents out of the total Department of Transportation's request for research and development.

(The information follows:)

DEPARTMENT OF TRANSPORTATION
FY 1983 RESEARCH AND DEVELOPMENT OBLIGATIONS
(dollars in millions)

	Obligations		R&D	Admin Total	Admin R&D
	R&D	DOT Total	As % of Total Budget	As % of DOT Budget	As % of DOT R&D
FHWA.....	$ 43.3	$8,107.9	0.5%	42.8%	11.2%
NHTSA....	59.7	160.1	37.3	0.8	15.5
FRA......	20.0	834.3	2.4	4.4	5.2
UMTA.....	43.5	3,343.1	1.3	17.6	11.3
FAA......	170.4	3,593.3	4.7	19.0	44.2
USCG.....	15.0	2,344.2	0.6	12.4	3.9
MARAD....	18.2	462.0	3.9	2.4	4.7
SLSDC....	--	12.3	--	0.1	--
OIG......	--	24.9	--	0.1	--
RSPA.....	7.5	23.8	31.5	0.1	2.0
OST......	7.8	49.4	15.8	0.3	2.0
TOTAL	$385.4	$18,955.2	2.0%	100.0%	100.0%

DOT EMPLOYMENT

Senator Andrews: Please provide a table comparing the permanent full-time employment ceiling by operating administration (including OST) for FY 1981, 1982, and 1983 (budget request). Also, provide a comparison of the FY 1982 information with the total number of personnel on board as of January 1, 1982.

(The information follows:)

DEPARTMENT OF TRANSPORTATION
FULL-TIME PERMANENT/END-OF-YEAR EMPLOYMENT a/
FY 1981, 1982, AND 1983

	FY 1981 Actual	FY 1982 Estimate	On Board 1/1/82	FY 1983 Estimate
FHWA.............	3,776	3,454	3,782	3,454
NHTSA............	743	640	721	640
FRA..............	1,259	1,194	1,235	700 b/
UMTA.............	547	516	531	506
FAA..............	41,259	44,760	42,508	47,355
USCG.............	5,481	5,484	5,459	5,484
MARAD............	1,222	1,113	1,195	1,113
SLSDC............	178	182	181	182
OIG..............	421	419	420	419
RSPA.............	774	709	715	709
OST..............	1,087	1,041	1,068	1,041
DOT Total......	56,747	59,512	57,815	61,603

a/ Includes nonceiling employment related to Worker-Trainee Opportunity Program and U.S.-Saudi Arabian Joint Commission on Economic Cooperation.

b/ Excludes Alaska Railroad, assumed transferred to the State.

QUESTIONS SUBMITTED BY SENATOR CHILES

OST OFFICE OF POLICY

Senator Chiles: Last year in House Report No. 97-186, it was noted that a 1979 DOT study showed that the size of the Secretary's Policy Office is three times larger than the average size of comparable offices in 10 major departments. Please submit a copy of the study for the record.

Response: A copy of the study was provided to the Committee.

OFFICE OF THE SECRETARY INCREASE

Senator Chiles: What rationale exists for the apparently oversized Office of the Secretary at the Department of Transportation? While most agencies in the Department are decreasing in size, the

Office of the Secretary shows a 31 percent increase over the 1982 appropriated level.

Response: Staffing in the Office of the Secretary has been reduced from 1,106 full-time permanent employees actually on board before this Administration took office to 962 this month -- a reduction of 13 percent. The two major contributing factors to the dollar increase for the Office of the Secretary in 1983 are the transfer of funding for the Minority Business Resource Center (MBRC) functions from the Federal Railroad Administration ($4.2 million) and restoration of research and development to a level where the program can operate more efficiently ($4.5 million). Also included are full-year costs of 1982 pay raises ($1.7 million), administrative support related to the transfer of MarAd activities ($.4 million), and costs of continuing 1982 programs ($.8 million). There are no program increases in any of the Secretarial Offices.

MINORITY BUSINESS RESOURCE CENTER PROGRAM OBJECTIVES

Senator Chiles: What specifically are the program objectives of the Minority Business Resource Center (MBRC) and why shouldn't this function be transferred either to the Office of Minority Business Enterprise at the Department of Commerce or to the Small Business Administration?

Response: The program objectives of the MBRC are as follows:

- o To identify and increase the participation of the number of minority and women owned businesses in the railroad revitalization program.
- o To provide business information relating to the railroad revitalization program, to minority and women owned firms.
- o To provide technical assistance that will enable these firms to compete for procurement solicitations.
- o To develop support mechanisms, which will assist minority and women owned firms to take advantage of such procurement solicitations.

The functions necessary to achieve these objectives are as follows:

- o Conduct outreach activities in the minority business community.
- o Obtain procurement solicitations from railroads and other DOT funded recipients.
- o Analyze procurement solicitations and prepare a synopsis.
- o Disseminate synopsis of procurement solicitation to qualified minority and women owned firms.
- o Disseminate copies of actual procurement solicitation to minority and women owned firms requesting it.

- Provide technical assistance to minority and women owned firms to assist them to bid.

- Provide long and short term capital and a bonding mechanism to aid minority and women firms to specifically obtain rail-related contracts.

The above functions, which are essential to the accomplishment of the program objectives of the MBRC are not performed by the Minority Business Development Agency (MBDA), Department of Commerce or the Small Business Administration. In addition, technical assistance provided by MBDA consists mainly of developing business plans. However, all MBDA services are restricted to firms having $150,000 per year sales volume, which would exclude from the MBDA program a large segment of those firms that are eligible for MBRC participation. SBA makes technical assistance primarily available after the award of a contract and mainly for approved Section 8(a) firms. Most of the firms that will be using the services provided by the MBRC will not be Section 8(a) firms.

Since MBDA and SBA do not provide the services necessary to achieve the objectives of the MBRC program, we do not believe that these functions should be transferred to MBDA or SBA.

MINORITY BUSINESS RESOURCE CENTER ACCOMPLISHMENTS

Senator Chiles: What were the accomplishments of the Minority Business Resource Center (MBRC) last year? What are the specific statutory authorities that either require or support the existence of the Center?

Response: During fiscal year 1981, a total of $193.1 million in contracts was awarded to minority- and women-owned firms by Department of Transportation (DOT) funded railroads. This represents a decrease of 3.5% from the $200 million awarded in fiscal year 1980 to these firms. Of the $193.1 million, $37.4 million were a result of assistance provided by the MBRC Local Outreach Center Program. Although most program activities of the MBRC were suspended for a period during fiscal year 1981 to permit an evaluation of the operation, those activities performed prior to the evaluation contributed to the overall achievement of the $193.1 million in contract awards.

An additional $5.6 million in contracts were obtained by minority- and women-owned firms from prime contractors to the railroads. A special marketing program assisted Native American firms to acquire $2.5 million in contracts.

DOT-funded Minority Business Enterprise Small Business Investment Companies invested $3.1 million in minority-owned firms during this period. Sixteen railroad-related investments were made to 12 firms. Nine of these firms received debt financing totalling $2.4 million and four received equity financing totalling $7 million.

An approximate 1,200 firms received technical assistance during this period. Services were provided in the areas of bid preparation, financial, and loan packaging to aid these firms to obtain funds from private commercial entities and to obtain necessary bonding coverage.

The MBRC was established and operates under the authority contained in Section 906 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), which added a new Section 11 to the DOT Act.

FEDERAL HIGHWAY ADMINISTRATION

STATEMENT OF RAY A. BARNHART, ADMINISTRATOR

ACCOMPANIED BY:
- LESTER P. LAMM, EXECUTIVE DIRECTOR
- RICHARD B. ROBERTSON, ASSOCIATE ADMINISTRATOR FOR PLANNING AND POLICY DEVELOPMENT
- EDWIN M. WOOD, ASSOCIATE ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT
- RICHARD D. MORGAN, ASSOCIATE ADMINISTRATOR FOR ENGINEERING AND TRAFFIC OPERATIONS
- LORENZO CASANOVA, ASSOCIATE ADMINISTRATOR FOR SAFETY
- DANIEL MARKOFF, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. Next we will proceed to the Federal Highway Administration. Our next witness is Mr. Ray Barnhart, the Federal Highway Administrator.

Mr. Barnhart, welcome to the subcommittee. I would like you to introduce your compatriots and present your statement. We will be sure that it is included in full for the record and then we will get to the questions.

INTRODUCTION OF ASSOCIATES

Mr. BARNHART. Thank you, Mr. Chairman. On my immediate left is Mr. Lester Lamm. Executive Director, and to his left is Daniel Markoff, Associate Administrator for Administration.

Down to the far left is Mr. Casanova, Associate Administrator for Safety.

To my right is Dick Robertson, Associate Administrator for Planning and Policy Development, and then Dick Morgan, Associate Administrator for Engineering and Traffic Operations. And Ed Wood, Research and Development.

PREPARED STATEMENT

We have submitted a rather lengthy statement for the record, and we will not take your time to go into it in detail.

[The statement follows:]

STATEMENT OF RAY A. BARNHART

It is a great pleasure to appear before this Committee to present the F.Y. 1983 Budget Estimate of the Federal Highway Administration. I feel that the relationship between FHWA and this Committee has been very cooperative and constructive, and I look forward to a productive hearing. Accompanying me are the FHWA program managers who will provide the expertise required in responding to inquiries regarding the many areas of interest to this Committee. Since I will call upon them to expand on my remarks and provide details, I would like to introduce them at this time:

Legislative Proposal

Our F.Y. 1983 Budget Request is based on the Administration's proposed highway legislation which will be submitted to the Congress in the near future. While I cannot go into great detail on the proposal, let me briefly highlight its more important provisions. The principal Federal interest in highways is to support and provide for national defense and the free flow of Interstate commerce. Our proposal, accordingly, emphasizes the expeditious completion and preservation of the Interstate System. For the non-Interstate programs, our proposal reflects the need to carefully target Federal resources to meet capital needs. Our proposal continues authorizations for the primary and bridge programs through F.Y. 1986, while continuing only through F.Y. 1983, the Secondary, Urban, and Safety programs because the State and local governments should be responsible for these programs. Our proposal provides for a four year phase out program for the Appalachian Highway System and funding for the highway portion of the Interstate substitution program out of the Highway Trust Fund. Finally, the Highway Trust Fund would be retained as a financing source for Federal highway programs. I would point out that our legislative proposal does not incorporate the new Federalism concept since details are not as yet finalized. Therefore, our legislative proposal for fiscal year 1984 and beyond may be revised after details on the Federalism proposal are developed.

F.Y. 1981 Accomplishments

I have been the Federal Highway Administrator for more than a year now, and I am very proud of the Federal Highway Administration, its programs, and the capabilities of the men and women who make it run. Before discussing our F.Y. 1983 budget request, I would like to mention a few of the F.Y. 1981 accomplishments I consider most noteworthy as well as some of our emphasis areas for the current and future years.

° Program Level

Obligations for "Federal-aid Highways" in 1981 reached almost $9.0 billion.

° Interstate System

An additional 382 miles were put into service, another 134 miles of gaps were put under contract leaving only about 1,289 miles to be completed.

° Interstate 3R

Resurfacing, restoration, and rehabilitation were again emphasized--obligations for these activities totalled about $249 million.

- Bridge Replacement and Rehabilitation

In the Highway Bridge Replacement and Rehabilitation program, obligations amounted to $937 million in 1981.

- Highway Safety

Approximately $400 million was obligated for the various highway safety programs in 1981.

- Motor Carrier Safety

During F.Y. 1981, management audits of shipper and carrier safety practices continued at a high level together with an increased number of vehicle inspections. This resulted in a higher volume of vehicles and drivers being placed out of service.

- FHWA's Minority Business Enterprise Program (MBE)

During F.Y. 1981, contracts totalling approximately $366.5 million were granted to minority firms in the Federal-aid highway program, an increase of 31% over F.Y. 1980. In addition, some $165 million in contracts were awarded to firms owned and controlled by women. These unprecedented results could not have been achieved without the cooperation and voluntary efforts of the States.

- Highway Inflation

We are all concerned about highway construction inflation, and I have some promising results to report. During calendar year 1981, highway construction costs, as measured by our Bid Price Index, actually decreased by 3.9% when compared to calendar year 1980. I am convinced that recent administrative efforts by the FHWA, as well as the Reagan Administration's overall anti-inflationary program, have contributed greatly to our recent success in controlling highway inflation.

Current and Future Emphasis

In fiscal years 1982 and 1983, we will continue to emphasize highway programs of national interest and to support the President's efforts to reduce Federal expenditures. These programs include:

- Interstate Completion and Preservation
- Cost Reduction
- Cost Effective Design and Construction
- Improved Safety in Hazardous Materials Transport
- Pavement Management

Summary of the Budget

I will now summarize our F.Y. 1983 Budget Estimates, highlight a few key elements, and indicate the underlying philosophy.

Program Levels

The program levels or obligations are the most meaningful indicator of budget activity. We anticipate total obligations of about $8.1 billion in F.Y. 1983, which includes $7.8 billion for the Federal-aid highways account; $150 million for Interstate Transfer Grants-Highways; and $80 million for the Appalachian Highway System.

Staffing

Consistent with the President's goal of reducing the size of the Federal Government, we are able to reduce our F.Y. 1983 request for personnel resources. Without going into too much detail, let me just say this: As of September 30, 1981, the FHWA had 3,776 full-time permanent employees on-board. We have been requested and expect to achieve an employment level of 3,454 by the end of fiscal year 1982 and we anticipate the same employment level of 3,454 at the end of fiscal year 1983. It is our intention to focus the highway program towards those categories that are clearly in the federal interest which will allow us to continue our high level of technical assistance in working with the States while still doing our part in the Administration's effort to reduce the federal workforce. I would emphasize that FHWA has gone out of its way to minimize hardships on adversely affected employees and to be as fair and humane as possible in protecting our people. It should also be noted that workload requirements continue to be met by shifting staff to higher priority programs as lower priority activities are eliminated or reduced.

Key Elements

° Federal-aid Highways

This, of course, is our principal program which provides the basic foundation of the Government's efforts to assist States and localities in developing the national highway system.

The budget contains a general provision which limits obligations to $7.7 billion with the Emergency Relief program and certain bridges being exempt. This is $.3 billion below the F.Y. 1982 obligation limitation of $8.0 billion. Let me explain some of the underlying philosophy of the request.

Our budget would continue to focus funding on the Interstate System--the highway program of greatest national significance. In addition to Interstate network completion, our budget emphasizes reconstruction and rehabilitation of existing Interstate highways which are increasingly showing signs pavement deterioration.

Our budget gives lower priority to those Federal-aid programs that are not of broad national interest, and encourages States and local governments to assume more responsibilities and make their own decisions.

° Interstate Transfer Grants-Highways

For F.Y. 1983, we are requesting a $150 million appropriation from the Highway Trust Fund to fund highway substitute projects. In F.Y. 1982, FHWA received a separate appropriation from the general fund to provide for this program. While a separate FHWA appropriation is preferrable to previous funding through the Urban Mass Transportation Administration, we continue to propose Highway Trust Fund financing because it is more equitable for the user supported Highway Trust Fund to finance highway projects under the authority of the Interstate withdrawal law.

° Appalachian Development Highway System

Proposed legislation would move responsibility for the Appalachian Development Highway from the Appalachian Regional Commission to the FHWA. The program would entail completion of all ongoing projects, repayment to States which have accelerated construction on reliance of future Federal funds, and high priority projects to assure all Appalachian States a minimum program.

The amount of our request for this program is $80 million in F.Y. 1983 to be appropriated from the Highway Trust Fund.

° Motor Carrier Safety

Our request is $12.7 million for this program in F.Y. 1983. The request does not include any funds for the Demonstration Program since the F.Y. 1982 appropriation completed funding for these projects. Program activities will concentrate on high risk motor carrier operations, particularly those transporting hazardous materials, and to provide safety equipment and hazardous cargo training and technical assistance to State enforcement agencies.

° General Operating Expenses

This account provides funding for virtually all of the salaries, expenses, and research and development programs of FHWA. Our request for F.Y. 1983 is $191.6 million, or about $800 thousand less than the F.Y. 1982 limitation of $192.4 million.

Significant savings result from personnel reductions, elimination of the Inspector General transfer, and the termination of the Rural Transportation Assistance program. With respect to the FHWA R&D programs, we have thoroughly reviewed the various activities and I have personally cancelled several million dollars proposed for lower priority projects. In addition, I have established a new mechanism, a Contract Review Board which is chaired by Mr. Lamm, to ensure that newly proposed R&D studies attack our highest priority problems and provide new technology to meet the needs of State and local highway agencies.

The increase in F.Y. 1983 results partially because the F.Y. 1982 base became so low as the result of my cuts. Efforts will be concentrated on those projects with a definite "pay off" in safety, new materials, improved techniques or some other real program benefit.

° Other Programs

There are several programs for which we received F.Y. 1982 appropriations which are not included in our 1983 request. The Territorial Highway program and Railroad-Highway Crossing Demonstration Projects program are narrow in scope and not appropriate Federal responsibilities. The Highway Beautification program and the Highway-Related Safety Grants are not as effective as our other programs and do not merit an appropriation request. For the Highway-Related Safety Grants program, we are proposing to eliminate authority already "on the books" for F.Y. 1982 and 1983.

Conclusion

These are some of the basic conditions and highlights of our budget estimate. We will be happy to discuss the estimates in detail, answer your questions, and provide additional information that may be helpful to the Committee in reaching its decisions on our budget requests.

OVERVIEW

Mr. **Barnhart.** I think we have had a very good year in the past year and we have had cooperation with the House and the Senate.

Basically our program will continue in the same path. I would point out, as you are interested in general operating expenses, that we are requesting about $800,000 less than last year.

Senator **Andrews.** You are a shining star.

Mr. **Barnhart.** We have a very good organization and lots of good people.

Senator **Andrews.** You deserve to be commended, and I am sure that all of the good things will rain down on your head because of these fantastic efforts.

Mr. **Barnhart.** Something will rain down. I am not sure what it is.

Senator **Andrews.** You never really can tell and from a sunny sky, probably, too.

ADEQUACY OF INTERSTATE TRANSFER GRANTS REQUEST

Mr. Barnhart, your budget request for highway interstate transfer grants is only $150 million compared with $288 million appropriated in fiscal year 1982.

Mr. **Barnhart.** Yes.

Senator **Andrews.** In fact, I have heard that the demand for use of transfer funds for ready-to-go projects may be as high as $1 billion.

What is your assessment of the existing demand for funding of currently ready-to-go projects?

Mr. **Barnhart.** We have a problem, but consistent with the other fiscal restraints that we are encountering all across the Federal highway program we have attempted to prioritize, and it has been a subjective judgment as to where the money should go.

Senator **Andrews.** Back to the level of demand, do you think the demand is in the $1 billion range on ready-to-go projects?

Mr. **Barnhart.** Yes; a little under that, perhaps $980 million.

Senator **Andrews.** Do you look on this program as a Federal commitment to those jurisdictions which have withdrawn interstate segments?

Mr. **Barnhart.** Yes, sir, I do.

Senator **Andrews.** So it is a valid commitment hanging out there.

How are we going to meet this escalating commitment of $1 billion with only a $150 million annual funding level?

Mr. **Barnhart.** We will not at the present time. It will have to be deferred until we obtain some additional funding into the program or restructuring in order to eliminate that obligation. I think it must be the former.

Senator **Andrews.** Do you expect all of these projects will eventually be funded?

Mr. **Barnhart.** I would suspect so because it is a commitment on the part of the Federal Government.

ESCALATION OF WITHDRAWN INTERSTATE SEGMENTS

Senator ANDREWS. Last year the Senate Environment and Public Works Committee proposed legislation, S. 1024, I believe it was, which would have eliminated the escalation of withdrawn interstate segments, essentially freezing their value.

Do you support this concept or have any ideas on how to make this interstate transfer problem more manageable?

Mr. BARNHART. We believe it should be frozen in 1983.

Senator ANDREWS. Frozen forward for all time?

Mr. BARNHART. Yes.

Senator ANDREWS. Can you provide some justification in support of that freeze at this point for the record?

Mr. BARNHART. We will be happy to do so.

[The information follows:]

ESCALATION OF WITHDRAWN INTERSTATE SEGMENTS

The current balance of substitute project funding is $5.7 billion. We anticipate up to another $4 billion—Federal funds—in future withdrawals by the September 30, 1983, deadline. Even with a gradual increase in the appropriation level for this program, the cost adjustment provision under current law hampers any significant reduction to the entitlement. Further, such adjstment provisions tend to be counterproductive to the efforts to fight inflation.

BRIDGE NEEDS

Senator ANDREWS. According to an August 11, 1981, GAO report, your agency has estimated emergency bridge repair and replacement needs in this country amount to $41.1 billion for some 200,000 deficient bridges.

I believe it appeared in This Week magazine——

Mr. BARNHART. Parade magazine.

Senator ANDREWS. Your own estimates show that the fiscal year 1983 budget will fund only about 850 million dollars' worth of bridge work.

Mr. BARNHART. Yes, sir.

Senator ANDREWS. What is the general condition of these bridges across the country? Are there a large number of dangerously deficient bridges ready to collapse, as this magazine article indicated?

STRUCTURAL AND FUNCTIONAL DEFICIENCY

Mr. BARNHART. I think it is a question of definition and the term "dangerously inadequate bridges" or "structurally inadequate." I think we are talking about two different categories of bridges, functionally inadequate and structurally inadequate.

There is no question we have a serious bridge problem all across this country. This past year we put something under $1 billion into the bridge program.

I think we must clarify our terminology in order to avoid undue concern. I don't believe that it is necessarily a question of immediate safety consideration, as to bridges about to collapse.

DOLLAR VALUE OF BRIDGE PROBLEM

Senator ANDREWS. Give me a barnyard figure. The $41.1 billion figure is the one that has been bandied about. How many dollars of dangerously deficient bridges are in that $41.1 billion?

Mr. BARNHART. I might add that the figure has been revised now to $47 billion because of inflation, so it is about $47 billion. But of the severe problems, I would suspect about $12 to $14 billion.

Mr. MORGAN. Those bridges that are eligible, structurally deficient bridges, about $14 billion.

Senator ANDREWS. What do you mean "structurally deficient," deficient as to size or strength?

Mr. MORGAN. Strength, yes, sir, strength deficiency. The others we call functionally obsolete.

Senator ANDREWS. So we have 14 billion dollars' worth of bridges out there that are structurally deficient to the point where they are dangerous?

Mr. MORGAN. That is the question. All of those, obviously——

Senator ANDREWS. The question I asked you is, of the $47 billion how many are dangerously structurally deficient?

Mr. MORGAN. I don't have that figure.

Senator ANDREWS. You came back with $14 billion?

Mr. MORGAN. Well——

Senator ANDREWS. Now you said they are not dangerously deficient. Do they fall into the category with the other $33 billion or where? I am trying to get some idea.

OFF-SYSTEM BRIDGE NEEDS

Mr. MORGAN. Senator, the $14 billion is on the Federal system. If we count off the Federal system, there is another close to $19 billion in structurally deficient bridges.

Senator ANDREWS. In other words, bridges that if a legally loaded truck were to go over, they might be in danger of collapsing?

Mr. MORGAN. It is possible.

Senator ANDREWS. Well, that's a fine state of affairs.

Mr. BARNHART. Probably like the Woodrow Wilson needs some repair. A truck or car is going to fall through the crack.

Senator ANDREWS. But if you drop your rear bogey down through those holes, you can sure mess up not only your unit, but whatever is coming behind you. And that is what would be known as a structurally, dangerously deficient bridge if that chunk of deck would collapse behind the rear bogey of a truck going over. It could result in 15 to 20 fatalities of people in the cars behind that truck. Is that true?

Mr. LAMM. If that happened, that could be the case.

Senator ANDREWS. That is the type of structurally deficient bridge you are talking about in the case of that bridge?

STATE INSPECTIONS AND BRIDGE POSTINGS

Mr. LAMM. But I should mention when the State inspection shows that a bridge is structurally deficient, the State would then post it for either reduced load or close it completely if it were totally deficient.

Senator ANDREWS. But you have not posted the Woodrow Wilson Bridge.

Mr. LAMM. To this point it is not structurally deficient.

Senator ANDREWS. You just said it is structurally deficient to the point it is not going to fall down, but it might drop a truck's bogey down through the surface of it.

Mr. LAMM. I said hypothetically if that occurred that sort of accident could take place.

Senator ANDREWS. Hypothetically, you can sit up on a pink cloud and say that the floor underneath this table is going to collapse and we are going to drop two floors.

You and I know that is not going to happen, but the odds are it could happen, as I infer from your prior comments and the comments of your colleague on the Woodrow Wilson Bridge.

What are the odds? Are you absolutely sure that a sectional decking is not going to collapse?

RESPONSIBILITY FOR WOODROW WILSON BRIDGE

Mr. LAMM. Let's define the organizational responsibilities. The Federal Highway Administration is not in charge of maintaining the Woodrow Wilson Bridge.

Senator ANDREWS. Well, we got into this argument when we considered the continuing resolution and the amendments regarding the Woodrow Wilson Bridge. But all I am trying to do is to nail down for the readers of this record what the facts actually are and we have talked about dangerously, structurally deficient bridges, 14 billion dollars' worth, on the Federal-aid system and another $19 billion of off-system bridges.

Then I asked whether they were going to collapse. You said that some of them might collapse, but in the case of some of them, the decking might go. Then you said that in the case of something like that, they would then put the proper signing on; but they haven't put the signing on the Woodrow Wilson Bridge.

So the question obviously follows, as the night follows the day: If that decking is going to collapse and you haven't signed it, why haven't you signed it?

Mr. LAMM. Frankly, because it hasn't gotten into that bad shape. I should point out last year Congress authorized $60 million in the Federal Aid Highway Act, and probably next month the State of Maryland will award a contract to begin redecking the Woodrow Wilson Bridge. Repair and improvement to that bridge is well underway.

BRIDGE DEFICIENCIES—ON- AND OFF-SYSTEM

Senator ANDREWS. Could you provide for the record specifically how you characterize bridges, and the number and the dollar impact of the on- and off-system Federal-aid highway funding for them so we can have a little clearer understanding?

If we are repairing only such a small part of the deficiencies annually, the problem is bound to grow and needed repairs and regular maintenance gets deferred even further into the future.

You are shooting at us with a $14 billion figure for the Federal-aid system. It was less than that last year. I would suspect given what you are doing, it is going to be more next year.

How do you propose to solve the dilemma?

BRIDGE REPLACEMENT PROGRAM

Mr. LAMM. Mr. Chairman, we focused on the bridge replacement program. Those are not the only Federal funds we have to improve bridges.

For instance, if the State of North Dakota improved a 5-mile section of U.S. 2, they may well, as part of that project, use primary funds to improve three, four, five, six bridges on that section of U.S. 2.

We have calculated that last year, for instance, in addition to the regular bridge money which was used, close to $1 billion, the States used about $1½ billion out of their other Federal-aid accounts to improve bridges.

So the States are devoting more attention than just the amount that is shown in our budget under bridges.

Senator ANDREWS. I will get back to my question. You say since you are doing it through other sources, next year, when I ask the same question, you are going to say we have less than 14 billion dollars' worth of problems, bridge problems, on the system.

Are you gaining or losing ground, is the thrust of my question. I probably should have phrased it that way in the first place.

[The information follows:]

BRIDGE PROBLEMS

A comparison of the December 1980 and December 1981 national bridge inventory data shows a slight increase in the percentage of deficient bridges in all categories. The reasons for this is that nearly all off-system bridges are not inventoried where last year only a conservative projection based on the then-inventoried 86 percent was included. We also had an increase in the number of primary system bridges reported as deficient. It is expected that the number of deficient bridges on the Federal-aid system will begin to accelerate in the near future. Primary system bridges have received much recent attention from the States. These bridges are beginning to deteriorate at a rapid pace due to heavier and more truck traffic, advancing age, climatological attacks, deicing chemicals, recent severe winters, and deferred maintenance by fund-strapped States.

IMPORTANCE OF BRIDGES IN HIGHWAY SYSTEM

Mr. BARNHART. I think we are losing ground and we need additional revenues into the program.

Senator ANDREWS. But given the budget estimate that you are coming up with, your estimate as an expert in the field and as the top man in this show right now, we are going to continue to lose ground in this particular area that has been identified as the bridges of the Nation.

You can have the best damn roads in the area, but if you come to a bridge that you can't cross the roads don't do you any good.

Gosh, I remember not too long ago, the fellow who brings the Sunday paper, called up my wife after spring break to get the renewal of the subscription. In the conversation with Mary he came up with the comment, "Your husband certainly is an honest man." Mary said, "Well, of course, he is, but why that comment?" He said, "I have been delivering your newspaper every Sunday morning for the last year and a half and anybody who has been in office as long as he has and still has these bad roads coming to this part of the country has to be honest." [Laughter.]

The point is we have a lot of bad roads where I come from, but he can still get through. But if we had a bridge that was out or collapsed, and that has happened occasionally out there, then there is no way you can get to your destination.

The problem that bothers me in this whole bridge thing is that those of us who are used to driving on dirt roads or gravel and fighting through the mud or one thing or another, can make due, but we can't make due if all of a sudden we come to a bridge that isn't there, a bridge that has a 5-ton load limit, when we are trying to haul a load of wheat out to the elevator, to join in the overall commerce of this country.

That is where the problem exists——

Mr. BARNHART. Absolutely. I would point out not only will we be losing ground in the bridge area, but also in the entire system. The deterioration of the interstate and primary roads is severe and it will escalate.

EMERGENCY RELIEF FUNDING

Senator ANDREWS. I understand over the past few years the emergency relief funding has been generally considered inadequate as well.

What has been the difference between the demands placed on this account and the actual amounts budgeted annually?

Mr. LAMM. We had legislation that we were talking about last year at the committee sessions, Mr. Chairman, which would have increased the amount available for the emergency relief program to $150 million per year, and at our current responsibility that seems to be at that level.

But that particular part of the legislation did not pass last year, so we still have a program of $100 million a year.

At that rate we expect that as we go into fiscal year 1983, we will have close to an $80 million backlog of projects from emergencies that we already know about, plus anything else that might happen between now and September 30.

PROTECTING HIGHWAY INVESTMENT

Senator ANDREWS. These are all investments in the future of this country, long-term investments.

Mr. LAMM. They are repairs that are absolutely needed to protect the full investment we have made.

Senator ANDREWS. The thing is we are all concerned about Government spending. We have to be, but Government spending breaks out into several different categories.

One category of Government spending—one of the smallest categories, really—is an investment in the future of this country. Our transportation system is an investment in the future of the country, an investment that yields dividends.

You are going to save money down the line. You are going to have more gross national product, so the money we are talking about that has grown so deficient over the last decade—it came about all of a sudden—is the investment in the very structure of our economy.

Mr. BARNHART. Yes, sir, it is.

INTERSTATE FUNDING

Senator ANDREWS. Now, your budget justification mentions an emphasis to expedite completion of the Interstate System, yet your request for obligational authority estimates that $100 million less than the fiscal year 1982 level will be spent on the Interstate System.

How do you propose to complete the Interstate System with a decreasing financial commitment? Do you do it with a mirror like David Stockman?

Mr. BARNHART. No, sir. And, quite frankly, the completion date would have to slip for a couple of years, probably to 1992 or 1993.

Senator ANDREWS. You anticipate the system would be completed in 1992 or 1993.

Mr. BARNHART. Yes, sir.

HIGHWAY TRUST FUND EXTENSION

Senator ANDREWS. Do you support the extension of the trust fund beyond 1984?

Mr. BARNHART. Absolutely, and if I had my way about it, we would put it in indefinitely.

Senator ANDREWS. In regard to your proposal for a gas tax increase of 5 cents a gallon, if the tax becomes a reality, would you propose to also increase your budget to reflect your new revenue sources?

Mr. BARNHART. That would be a condition on support. If there were efforts made to divert that money simply to balance the budget rather than to put it into the program, I frankly would oppose it.

Senator ANDREWS. In other words, your user fee is definitively earmarked for the investment in serving those users and not to be transferred off to apply to the other budget needs?

Mr. BARNHART. Absolutely correct, and I should add that the Federal-aid highway program has not contributed 1 penny of debt to this trillion dollar national debt. I wish we could make the distinction clear between user fees and general taxation.

HIGHWAY CONSTRUCTION COSTS

Senator ANDREWS. Since the construction industry is desperate for work these days, it would seem like a good time to be investing in interstate construction and highway maintenance.

The bids should be lower and the public could be getting a better return for each dollar spent. Have you seen a reduction in the costs associated with the construction or maintenance of roads?

Mr. BARNHART. Yes, sir. We had a drop of about 3.9 percent last year, the first one in about 6 years, as I recall.

Is that not correct?

Mr. LAMM. Yes.

Mr. BARNHART. About 6 years. I think it is an urgent problem, and I think the highway system, from the position I sit in, is absolutely essential to the economic prosperity of the country.

Senator ANDREWS. I am not biased about too many things, but I am awfully biased when you live on the end of an awful lot of roads, as we do in North Dakota.

Mr. BARNHART. If we were able to, that money would be plowed into the program. Quite frankly, I think it is a showpiece of federalism.

NEW FEDERALISM AND HIGHWAYS

Senator ANDREWS. You are pointing to this user fee. Are you going to be bringing it in and allocating it out on the same basis it has been over the years? The new federalism is different. It uses the concept that the user fee goes to the States and then the States run their own independent programs, which would balkanize this country, as far as transportation is concerned, like nothing we have seen in a long time.

Mr. BARNHART. I think the discussion of federalism is constructive, and I think the first card has been played. I think it is going to be a long, drawn-out negotiation to finally redefine what is the Federal responsibility.

I am convinced that the urban and secondary programs should be returned to the States, but I think we must also return about $2 billion in order to fund those programs.

If the Federal Government were out of direct involvement in these two areas, I think that the value of $2 billion would be extended beyond the $2 billion, because I think you pick up 30 to 35 percent of purchasing value of the dollar by getting the Federal Government out of it.

So I think it would be looked on favorably by the Governors, and that is federalism.

Senator ANDREWS. I have been making speeches saying we are going to save 25 percent if we get the Federal Government out of the act.

You say 35 percent. It makes the point even better.

Mr. BARNHART. As a commissioner of the highway department down in Texas, I believe that we can gain a good 30 to 35 percent more value out of that dollar.

ENVIRONMENTAL CONCERNS AND HIGHWAY CONSTRUCTION

Senator ANDREWS. Do you still have the people peeking over your shoulders making sure you maintain ditches for ducks when you want to rebuild that highway?

That is an added cost you didn't have 8 or 10 years ago.

Mr. BARNHART. I think the Congress has responded to various interest groups to the detriment of this country. We have allowed handfuls of people to use the system, to delay and add tremendous cost to this program. Everybody in this country has been penalized.

I think some of the things they express are legitimate, but I think many other concerns the express are simply tactics to kill projects they personally dislike.

I am committed to trying to make timely decisions in this Federal program, but at the same time to not deny people the right to express their concerns. But once they register those concerns and address them, then we have to have timely decisions. It takes over 7 years from concept to the issuance of the contract on the average. That more than doubles the cost of projects, and I think it is unconscionable use of the system and an abuse of the taxpayers, but we need some congressional help.

HIGHWAY COST ALLOCATION STUDY

Senator ANDREWS. You are doing the highway cost allocation study. That ought to address some of these concerns.

Mr. BARNHART. The cost allocation does not get into this cost factor, but rather to determine what is an equitable percentage of cost of the program that should be borne by the individual classes of vehicles.

Senator ANDREWS. What tasks are still to be completed in the cost allocation study and when are we going to see the results?

Mr. BARNHART. We are coming up to the 11th hour and I anticipate it will be very shortly that we will be able to present it.

Just generally, I think everyone is aware of all of the data that has been issued, which would indicate that basing the proper share at what the passenger car pays—I think the small economy car underpays; the pickup trucks and wide trucks overpay, and the heavy trucks underpay. But that is going to have to be worked out as far as the percentage.

EXCISE TAX ON FARM VEHICLES

Senator ANDREWS. We have had a good deal of interest lately in rural areas looking at the excise tax on trucks. Many trucks that are labeled farm trucks are used trucks. The farmer will put a tag on them to haul crops from his farm to the local elevator or sugar beets from the farm to the beet dumper, or potatoes from the farm to the warehouse.

They never really do get on any Federal roads. It is certainly not a primary road system or Interstate System. Yet all of these trucks are subject to the interstate excise tax.

Now, there have been a number of pieces of legislation suggesting that for those trucks that are recognized as farm vehicles that they be exempted from this excise tax. I don't know how you do it in Texas.

In North Dakota they license at about one-fourth the normal rate for their weight because they are used so seldom and they have to be pretty specific in what their duty is.

FARM VEHICLES AND THE HIGHWAY COST STUDY

Mr. LAMM. We have considered that, Mr. Chairman. One of the things that the cost allocation study does is look at the current exemptions and any proposed future exemptions.

As you know, farm vehicles are now exempt from having to pay the 4-cent-per-gallon gasoline or diesel charge.

They are also partially exempt from sales tax at the time the vehicle is purchased, and so forth.

We personally within the FWHA would support that exemption to the use tax as well because, as Mr. Barnhart has mentioned, the data we have shows that the bill on the heavy trucking part of the driving public should be increased.

That is, the portion of the trucking community that uses the highway system should go up to some degree, which would mean instead of $3 per 1,000 Federal use tax, you may be talking about somewhat of a larger figure.

In that event, we would certainly support an exemption for farm vehicles, at least to the point that they are actually being used off the highway system.

ENFORCING FARM TRUCK TAXES

Senator ANDREWS. Farmers found out about this 3, 4 years ago and got notice from the IRS that they were liable for this and in many cases these trucks that were licensed for roughly 48,000 pounds were worth about $600. They were 20-year-old trucks, but the tax due on the truck was more than the truck was worth.

If you don't think you had irate farmers out there, think again. There it is a special kind of a truck and yet they are taxed as much as a $40,000 truck bought by a commercial trucker that goes up and down the interstate 100,000 miles a year.

Mr. BARNHART. We are looking at that use tax very closely because we really believe that we ought to change the method of collection.

Senator ANDREWS. In fact, there was some suggestion that one of the easiest ways to do that would be to exempt the straight jobs and apply the tax in a more equitable manner on the semis, because these, of course, are all straight trucks. There is very limited hauling long distance on them.

Mr. LAMM. You bring up a good point, too, about the enforcement. The highway tax collection is a function of the Internal Revenue Service.

As I mentioned before, we would have no problem with that recommendation within FWHA, but other Government units have the real authorization to either apply or not to apply the tax.

Senator ANDREWS. Sir, the highway administrator talked about it and he said it was a good idea. It must have been deep-sixed or lost along the line.

It does not really amount to a lot of revenue. It is a nuisance. I imagine the livestock guy out in Texas that has a special truck that hauls 8 to 10 loads of steers to the auction ring during the year on this old truck and then he pays $80 to $90 in Federal excise tax per year for those trips.

Mr. BARNHART. The method of collection is also extremely loose. It seems to me you penalize the honest guy.

Senator ANDREWS. The guy who declares it gets nailed.

Mr. BARNHART. I think it should be changed.

Senator ANDREWS. It was a surprise to a lot of farmers. The IRS put an agent in the field. They took a look at all of the farm trucks on the motor vehicle department registration list.They proceeded to go down the list.

The farmers didn't have any idea that the equipment was liable.

STATE AND FEDERAL RESPONSIBILITY

Based on your experience at the State level, what parts of the highway program do you feel the States are capable of assuming from the Federal Government? Would it include these local and secondary roads that you mentioned a moment ago?

Mr. BARNHART. Beyond that, I think this is a Federal responsibility.

Ultimately, I think it will be arrived at, but the primary system, because of the interstate nature, is a Federal responsibility. That includes the interstate which is part as well as the other primary U.S. roads.

I don't think we will escape it nor can we escape responsibility in the bridge area.

Senator ANDREWS. On or off the primary road system?

Mr. BARNHART. I think we can make a distinction in there, but that is why I have suggested maybe $2 billion turned back to the States with the two basic programs of urban and secondary and some of the off system, depending upon the size.

It has always been a part of the President's proposal, it seemed to me, that the Federal Government enters the picture when the problem is beyond the capacity of local governments or people to address that problem.

I think in the bridge area that is very true. So I believe that is where we should be going, but that is my own subjective personal opinion.

RURAL TRANSPORTATION ASSISTANCE

Senator ANDREWS. Your fiscal year 1983 budget appears to have deleted all funding for the rural transportation assistance program.

How are you currently using the $5 million we gave you for fiscal year 1982?

Mr. BARNHART. That was a last minute program that crept up on us and I'll ask Dick Robertson to reply in detail.

Mr. ROBERTSON. Senator, at the moment we have only used $200,000 of that for a long-term monitoring program in Idaho.

We are looking at some other uses, which we have been discussing internally.

I will give you some examples, sir. We are developing some pavement guidelines to rural areas.

We are looking at the possibility of a comprehensive training course for State and local officials to enable them to help solve transportation needs.

We are looking at possibly establishing a university extension program to provide technical assistance to small communities.

We are looking at microcomputer applications in rural areas, sir, and a possible 3-day transit administration workshop.

I suspect within the next month we will arrive at how we should split the funds up among those programs. We do intend to obligate the $5 million.

CONTINUING RURAL TRANSPORTATION LINE ITEM BEYOND 1982

Senator ANDREWS. Will these be ongoing programs that would benefit or need, say, an additional $5 million in fiscal 1983?

Would this kind of input help the localities help themselves in the type of self-help program we have just been talking about?

Mr. LAMM. In looking at the 1983 budget, Mr. Chairman, we determined that some of these projects will get underway with this first $5 million and will continue.

We do have other sources of revenue within our contract funds currently, and we feel we can manage the continuation of these projects without the need to ask for additional revenues.

Senator ANDREWS. Of course, you never saw the need for or you didn't initiate those rural transportation assistance programs when you had the funds available in the other pocket. So when we took some funds and stuck them in this, it kind of stimulated your imaginations.

Mr. LAMM. Not entirely, Mr. Chairman. We had some of this work ongoing. As Mr. Robertson mentioned, we do have a $200,000 grant to the State of Idaho which is the first actual use of the funding.

Senator ANDREWS. You would have done it without the designation?

Mr. LAMM. Yes, sir, prior to the approval of that $5 million, we had also identified the same type of work and initiated it in six other States with other classes of funds.

LETTER AND SUBMITTED QUESTIONS

Senator ANDREWS. You have been most helpful, Mr. Administrator. We have a number of questions that I will submit to you for answers on the record. Some of my colleagues have questions as well. A letter, which is associated with the questions on bridge construction, also will be inserted at this point in the record.

[The letter and questions, which were not asked at the hearing but were submitted for response for the record, follow:]

LETTER FROM EUGENE C. FIGG, JR., PRESIDENT, FIGG AND MULLER ENGINEERS, INC.

MAY 4, 1982.

Hon. MARK ANDREWS,
Chairman, Senate Committee on Appropriations, Transportation Subcommittee, Dirksen Senate Office Building, Room 1226, Washington, D.C.

DEAR SENATOR ANDREWS: This letter is submitted to record our views on possible solutions to some of the problems connected with the need for replacing deficient bridges throughout the country.

Figg and Muller Engineers, Inc. was formed for the purpose of introducing innovative and economical bridge designs to the United States. Mr. Jean Muller, Chairman of the Board, developed the technology for precasting concrete box girders in Europe and brought to the firm more than 30 years of experience for this specialized construction method.

Our firm has been associated with projects in 16 States representing more than $700 million construction cost. Our first segmental design project in this country was for the Long Key Bridge replacement in Florida. Since this innovative design was new to contractors in the area, it was offered as an alternate to a conventional concrete girder design which was prepared by the Florida State Department of Transportation. The low price bid for our precast concrete box girder bridge was $15.3 million, which was $2.66 million below the bid for the conventional design.

The Long Key Bridge was the first of four bridges designed and built as precast concrete box girders. The other three bridges are Seven Mile, Niles Channel, and Channel Number Five. Thirty-seven bridges in the Florida Keys were authorized to be replaced in the 1974 Supplement to the Federal Aid Highway Act and their total cost is now estimated to be about $175 million. We believe that it is significant to note that total length of the four segmental bridges is almost 57,000 feet out of the 92,000 feet (62% segmental) while the cost is only $80.9 million out of the $175 million (46%). Our savings represent $12.6 million when our segmental bridges were bid against conventional designs. This is a 17% savings in construction cost.

The design of precast box girder bridges permits the mass production of segments in a central casting yard and the rapid erection into completed spans. The contractor for the Seven Mile Bridge ($45 million) completed six spans in one work week for a total length of 810 feet. He averaged a completion rate of more than 2,200 feet of bridge each month during construction. (Long Key was completed 12 months ahead of schedule and Seven Mile will be completed 6 months ahead of schedule.)

Our segmental bridge for Wiscasset, Maine saved $4 million. The low bid on our concrete segmental design was $8.4 million and the low bid on the steel design was $12.4. The construction of our bridge is well underway and the bridge should be completed ahead of schedule.

The quality of our bridges is superior to present design because of the construction control we can maintain for these concrete bridges built in "factory" conditions.

We are proud of the contribution that our firm has made by helping to introduce this innovative and economical bridge design technology to America, and we appreciate the opportunity to call attention of these developments to your Committee as a significant method to reduce the cost and improve construction methods for the bridge replacement program.

We are consistently saving more than 10% in construction cost and our concrete segment bridges are being built in two-thirds the time required for conventional designs.

Sincerely,

EUGENE C. FIGG, JR., P.E., *President*

QUESTIONS SUBMITTED BY SENATOR ANDREWS

BRIDGE INSPECTION PROGRAM

Senator Andrews: Please give us a brief report on the status of the State inspections of bridges. How frequently should and do they inspect bridges?

-- How thoroughly is the job done?

-- How do the States' performances compare with the job formerly done by FHWA?

-- Do the States do the job themselves or use consultants?

-- What criteria are used to judge the qualifications and performance of the States or the consultants?

-- At what stage are you in your review of bridge standards?

Response: The National Bridge Inspection Standards (NBIS) require that all bridges on public roads be inspected every two years. The majority of States are meeting the 2 year inspection frequency, however, some local governmental agencies are having difficulty meeting this schedule. The principal reasons for this are lack of available people and insufficient funds.

Generally the bridge inspections completed by the States are very thorough. A majority of the States have developed their own bridge inspection forms and inspector training procedures. In most cases the States are gathering more data for their own use than is requested by FHWA.

FHWA has not performed bridge inspections for the States. However, our Direct Federal Divisions are performing bridge inspections for various other Federal agencies. The role of FHWA with respect to State bridges has been to conduct field and office management reviews of the State inspection programs to evaluate and assist in improving State inspection procedures, data management, training and qualifications of bridge inspectors and bridge evaluation procedures.

Consultants are performing bridge inspections in many States. However, the majority of the States are doing their own inspections.

The States are required to inspect their bridges in accordance with the NBIS. The NBIS also designates the qualification of inspection personnel, inspection procedures and reporting procedures. As required by the NBIS, all bridge inspection whether done by consultants, State forces or representatives of local governments, must be under the direction of fully qualified engineers experienced and trained in bridge inspection.

The Federal Highway Administration is reviewing and evaluating available data and information concerning the NBIS including the 2-year reinspection requirement for possible methods to simplify procedures and improve the cost effectiveness of inspection. This item is a topic for discussion at the upcoming April and May

American Association of State Highway and Transportation Officials bridge subcommittee meetings. Since it is intended that the collective comments from these meetings play a part in determining what changes, if any, will be proposed for the NBIS, final proposals will not be offered for general consideration until later this year.

BRIDGE COSTS

Senator Andrews: Please provide an account of the number and cost of bridges on the various systems whose ratings would indicate that they should be replaced today.

Response: The following cable provides a listing of bridges by system that are eligible for replacement or rehabilitation under the Highway Bridge Replacement and Rehabilitation Program.

System	Bridges Eligible for Replacement or Rehabilitation Sufficiency Rating 50	Estimated Replacement Cost in Billions	Bridges Eligible for Rehabilitation Sufficiency Rating 50 - 80	Estimated Rehabilitation Cost in Billions	Total Cost in Billions
Interstate	420	$ 0.4	2,724	$ 1.3	$ 1.7
Primary	7,911	5.8	12,046	4.1	9.9
Urban	3,626	4.3	4,323	2.0	6.3
Secondary	14,650	3.6	15,509	3.1	6.7
Total Federal Aid	26,607	14.1	34,602	10.5	24.6
Off-System	121,618	18.8	50,692	4.2	23.0
Total	148,225	$32.9	85,294	$14.7	$47.6

The bridges that are eligible for replacement are generally structurally deficient which means that they may have been restricted to light vehicles only, closed to all traffic, or immediate rehabilitation is necessary to keep them open. The bridges that are eligible for rehabilitation are generally classified as functionally obsolete which means that the deck geometry, load carrying capacity, clearance or approach roadway alignment can no longer safely service the system of which they are an integral part.

We would like to emphasize that there is very little danger of these bridges collapsing because State highway agencies preclude their bridges from becoming dangerous by requiring continuing inspection and maintenance and by the use of traffic control devices, posted load limits, and complete closing where required for any bridges with known deficiencies or which are in questionable condition.

DEFICIENT BRIDGES

Senator Andrews: What percentage of our Nation's bridges currently are rated as substandard?

Response: As of December 1981, the percentage of deficient bridges per system was as follows:

Inventoried Federal-Aid Bridges

Structurally Deficient	10.5%
Functionally Obsolete	15.5%
Total Deficient	26.0%

Inventoried Off-System Bridges

Structurally Deficient	33.4%
Functionally Obsolete	27.4%
Total Deficient	60.8%

CLOSED BRIDGES

Senator Andrews: At what point do you require a bridge to be closed -- what standards are applied?

Response: The NBIS requires bridges to be rated as to their safe load carrying capacity in accordance with the American Association of State Highway and Transportation Officials Manual for Maintenance Inspection of Bridges 1978. This manual recommends that a bridge be closed if it is not capable of carrying a weight limit of 3 tons. The final decision on closure is the responsibility of the governing entity.

BRIDGE FUNDING PRIORITIES

Senator Andrews: Considering that sufficient funds are not available for all deficient bridges, what are your priorities for the funds provided under the Highway Bridge Replacement and Rehabilitation Program?

Response: The future Federal role should concentrate principally on Primary system highways which are interstate in character and operation.

THE FEDERAL GOVERNMENT'S OFF SYSTEM BRIDGE PROGRAM

Senator Andrews: Should the Federal government be involved in financing the replacement or rehabilitation of bridges off the Federal-aid system?

Response: Because the transportation portion of the President's New Federalism proposal is still under development and refinement, the precise nature and funding provisions for the future bridge program including the off system cannot now be defined.

THE FUTURE BRIDGE PROGRAM

Senator Andrews: What are your future plans for the bridge program regarding the transfer of maintenance, repair and replacement responsibilities to the States?

Response: The transportation portion of the President's New Federalism proposal is still under development and refinement. No matter what form future legislation takes, it will take the combined resources of all levels of government to ensure the future safety and usefulness of highway bridges. The bridge problem is a State, local and national problem and each level of government will have to bear its share.

RURAL TRANSPORTATION

Senator Andrews: I notice that under highway safety R&D your funding for Rural Highway Safety Improvements steadily increased from FY 1981 through FY 1983. What have you learned from this program in past years and what are your plans for future projects?

Response : Under the Rural Highway Safety Improvements Project, emphasis is on two-lane roads and speed zoning and control. I will outline some of the findings and conclusions from completed studies under this project.

One study examined the effectiveness of six individual signs and sign sequences for warning motorists in advance of a hazardous or sight restricted intersection in a rural two-lane situation. Signs examined ranged from the standard intersection warning symbol sign to vehicle actuated signs with flashing warning lights. The research indicated that warning signs with flashers or regulatory signs are most effective in terms of reduced speed and increased driver awareness.

Another study examined the effectiveness of three different warning device configurations for alerting motorists about unattended parked or disabled vehicles at the roadside and the need for caution in passing. Activated four-way flashers combined with warning triangles were shown to be effective in warning the approaching driver of a stationary vehicle at the roadside.

A cost-effectiveness analysis was conducted for 60 different types of safety improvements for two-lane highways. These safety improvements ranged from installing pavement markings to increasing the width of pavement. Low-cost types of improvements such as installing warning signs, installing centerline markings on curves, installing guardrails on the outside of curves, and removing trees on the outside of curves, were found more cost-effective than high-cost improvements.

Another analysis was conducted to determine the levels of safety which might be attainable over the next 20 years given different levels of investment in safety improvements on two-lane highways. From this analysis it was concluded that investing $800 million annually on safety improvements would prevent about 1.5 million accidents over the 20 year period.

Regarding future plans, a study will be conducted to determine how to increase the safety and capacity of two-lane roads. Some of the improvements to be studied include (1) the addition of passing and climbing lanes, (2) building vehicle turnouts in mountainous areas, (3) shoulder usage by slow moving vehicles, and (4) building short four-lane sections to eliminate backups in the traffic stream.

Another planned study will develop geometric design guides for low and moderate volume roads. The guidelines will consider cost, safety, and the functional use of the road.

In the area of speed zoning and control, emphasis will be placed on developing objectives and quantitative methods for establishing speed zones for different road types and conditions. Consideration will be given to accident risk, regional differences, vehicle characteristics, transport and energy cost, enforcement requirements, and driver acceptance. Studies will be conducted to find ways, other than enforcement, for controlling vehicle speeds. Of specific interest is how to reduce wide differences in travel speed and achieve voluntary compliance with posted speed limits.

HIGHWAY LEGISLATION

Senator Andrews: What legislative changes are you proposing this year for the highway program? Please submit both the proposed legislation and a summary of the significant changes.

Response: Our legislative proposal is still under development and several important provisions have not yet been finalized. For this reason, we cannot submit our legislation at this time. We will do so just as soon as it is completed.

Our proposal will incorporate the basic philosophy that was evident in our 1981 bill: Federal funding for capital improvements should be concentrated on the higher order systems with the greatest inherent Federal interest while States and localities should have full authority and responsibility for lower order systems.

There are several significant changes that we will be recommending. These include:

- Authorizations are provided for four years for most programs.
- Revising the distribution of Interstate construction discretionary funds from a first come, first serve basis to a more truly discretionary method whereby the Secretary may allocate the funds to projects of an unusually high cost relative to a State's apportionment and to projects that will help complete Interstate segments not open to traffic. A $300 million set aside from Interstate construction funds will be added to lapsed amounts to form the discretionary fund.
- An Interstate 4R discretionary program will be established to redistribute lapsed 4R apportionments to States that can readily use the funds. Transfer of 4R apportionments to Interstate construction only would be allowed.
- Priority primary program is repealed.
- A new formula will be established for the bridge replacement and rehabilitation program to provide for a more equitable distribution.
- The secondary, urban, and safety construction programs will be phased out, i.e., these programs will receive authorizations only for FY 1983.

INTERSTATE TRANSFER GRANTS

Senator Andrews: The States have until September 30, 1983, to withdraw nonessential Interstate segments. How many more segments do you anticipate will be withdrawn and what impact will that have on the demand for Interstate substitution funding ?

Response: We do not have a precise estimate of the number of segments which will be withdrawn before the September 30, 1983, deadline. However, we estimate the value of future withdrawals may be up to $4.5 billion. This, of course, will substantially increase the demand for this funding.

Senator Andrews: Please provide for the record a list of all withdrawn Interstate segments, their escalated value as of March 31, 1982, and their value on the date of withdrawal (include the date of withdrawal).

WITHDRAWN INTERSTATE SEGMENTS

Location	Interstate Routes Withdrawn	Date of Withdrawal Approval	Base Amount 1/ ($ Millions)	Amount Made Available 2/ ($ Millions)	Obligations to 12/31/81 Transit ($ Millions)	Obligations to 12/31/81 Highways ($ Millions)	Net Amounts Remaining After Deducting Obligation ($ Millions)
Massachusetts (Boston)	95,695	1974	$ 603	$1,404	$1,113	---	$ 291
Pennsylvania (Philadelphia)	695	1974	148	340	322	18	---
	895	1980	82	128	15	2	111
(Pittsburgh)	579	1979	39	62	---	---	62
District of Columbia Urbanized Area	70S	1975	77	149	88	---	61
	70S,95	1975	304	399	399	---	---
	66,266	1977	301	472	469	3	---
	266	1978	36	52	52	---	---
	295,395	1978	403	660	652	8	---
	695	1980	230	364	166	9	189
Connecticut (Hartford)	86,291	1975	189	419	8	27	384
(Hartford-New Britain)	491	1980	81	127	---	5	122
Oregon (Portland)	80N	1976	146	321	32	93	196
	505	1979	99	154	---	---	154
(Salem)	305	1977	33	54	---	18	36
Arizona (Tucson)	710	1977	29	65	1	7	57
Illinois (Chicago)	494	1977	453	729	80	365	284
	494	1979	1,011	1,682	---	---	1,682
Colorado (Denver)	470	1977	153	250	18	47	185
New York (Albany)	687	1978	35	58	5	10	43
(New York City)	495	1979	119	266	66	45	155
Minnesota (Minneapolis)	335	1978	71	115	2	22	91
(Duluth)	35	1981	45	70	---	---	70

WITHDRAWN INTERSTATE SEGMENTS (continued)

Location	Interstate Routes Withdrawn	Date of Withdrawal Approval	Base Amount 1/ ($ Millions)	Amount Made Available 2/ ($ Millions)	Obligations to 12/31/81 Transit ($ Millions)	Obligations to 12/31/81 Highways ($ Millions)	Net Amounts Remaining After Deducting Obligation ($ Millions)
New Jersey							
(New York City)	495	1979	36	60	47	3	10
	95	1981	73	114	---	---	114
(Philadelphia)	895	1980	71	112	---	---	112
Ohio (Cleveland)	490	1979	148	246	---	27	219
Nebraska (Omaha)	580	1979	47	75	2	21	52
California							
(Sacramento)	80	1980	58	90	---	---	90
(San Francisco)	280	1981	54	85	1	---	84
Tennessee (Memphis)	40	1981	172	269	3	---	266
Indiana							
(Indianapolis)	165	1981	53	82	---	---	82
Maryland (Baltimore)	70	1981	130	203	7	---	196
Iowa (Waterloo)	380	1981	189	296	---	---	296
	TOTALS		$5,718	$9,972	$3,548	730	$5,694

1/ Cost of the withdrawn routes as they were reported in Interstate Cost Estimate applicable to the specific action.

2/ Base cost adjusted to December 31, 1981, including obligations to that date. Data to determine March 31, 1982, costs is not yet available.

Senator Andrews: What are your thoughts on eliminating the cost escalation provision associated with the Interstate withdrawal program?

Response: Our legislative proposal will include a provision to eliminate the cost trend adjustment provision. This would assist in steming the growth of the funding entitlements and facilitate an earlier conclusion of the program.

Senator Andrews: What do you think about extending the September 30, 1986, deadline for projects to be under contract for construction?

Response: We do not recommend extending the September 30, 1986, deadline at this time. This deadline date applies to Interstate gap segments as well as Interstate substitution projects. The parallel between these two options should be maintained to the extent possible. Any extension at this time would likely result in delays in implementing substitute projects. Current law specifies that the deadline only applies if the Secretary finds that sufficient Federal funds are available. Therefore, we currently have the latitude to allow an extension to the deadline in specific instances. We believe it is premature to provide an extension for added flexibility while we are still 4 years before the 1986 deadline.

Senator Andrews: What alternative exists for jurisdictions with readied projects which are awaiting Federal funding as of the September 1986 deadline?

Response: The demand for funding in nearly all of our Federal highway program areas exceed the funding being made available. It would be desirable to be in a position to satisfy all the demands but overall budget restraints must be recognized. As with other programs, implementation of substitute projects must be deferred until the Federal funding becomes available or the projects must be financed without Federal assistance. As mentioned earlier, the Secretary has the discretion under current law to extend the deadline in specific cases where the insufficiency of Federal funding can be demonstrated.

OBLIGATION LIMITATION

Senator Andrews: What has been the impact of the congressionally imposed obligation limitation on the States's ability to spend money apportioned to them?

Response: Through fiscal year 1978, congressionally imposed obligation limitations were sufficiently high that they did not inhibit the States' ability to obligate available funds. Beginning in FY 1979, economic conditions dictated increasing control over Federal spending, and obligation limitations had to balance the nation's highway needs against the need to curb inflation and balance the Federal budget.

Some States could obligate more than they are permitted to do so under the limitation for a given year. However, because funds are available for more than a year (4 years for non-Interstate and Interstate 4R funds), States can plan their program so as to avoid lapse.

In addition, the law provides that sufficient obligation authority must be provided to prevent lapse of apportionments, except when a State intends to lapse Interstate construction funds. The following table shows the obligation authority available to each State for FY 1982, broken down between amount the State must apply if it elects to prevent lapse and other that may be applied without lapse consideration.

U. S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration

Obligational Authority Available for FY 1982

State	1982 Obligation Limitation		
	Amount Necessary to Prevent Lapse	Other	Total
Alabama	306,641.97	159,422,358.03	$159,729,000.00
Alaska	15,754,128.00	91,183,872.00	106,938,000.00
Arizona	41,507,115.00	64,138,885.00	105,646,000.00
Arkansas	6,542,313.94	70,210,686.06	76,753,000.00
California	272,223,620.52	407,621,379.48	679,845,000.00
Colorado	11,096,701.29	107,224,298.71	118,321,000.00
Connecticut	90,798,362.00	48,940,638.00	139,739,000.00
Delaware	17,933,487.58	18,009,512.42	35,943,000.00
Florida	1,666,389.70	316,205,610.30	317,872,000.00
Georgia	415,436.96	255,926,563.04	256,342,000.00
Hawaii	68,631,510.12	14,181,489.88	82,813,000.00
Idaho	13,736,360.42	39,294,639.58	53,031,000.00
Illinois	20,985,886.76	240,299,113.24	261,285,000.00
Indiana	20,488,651.88	91,032,348.12	111,521,000.00
Iowa	8,700,440.25	87,805,559.75	96,506,000.00
Kansas	5,732,135.10	94,880,864.90	100,613,000.00
Kentucky	2,162,003.34	173,015,996.66	175,178,000.00
Louisiana	80,999,683.33	173,496,316.67	254,496,000.00
Maine	16,808,287.00	27,223,713.00	44,032,000.00
Maryland	24,214,721.50	249,936,278.50	274,151,000.00
Massachusetts	84,713,763.00	89,088,237.00	173,802,000.00
Michigan	60,941,084.14	131,156,915.86	192,098,000.00
Minnesota	15,709,118.59	145,556,881.41	161,266,000.00
Mississippi	24,315,244.85	48,030,755.15	72,346,000.00
Missouri	2,938,228.96	131,052,771.04	133,991,000.00
Montana	2,433,304.84	62,993,695.16	65,427,000.00
Nebraska	13,083,189.94	56,426,810.06	69,510,000.00
Nevada	3,105,322.00	44,896,678.00	48,002,000.00
New Hampshire	16,808,287.00	24,872,713.00	41,681,000.00
New Jersey	96,251,446.21	87,276,553.79	183,528,000.00
New Mexico	48,611,574.09	14,789,425.91	63,401,000.00
New York	104,266,422.27	299,746,577.73	404,013,000.00
North Carolina	47,899,348.38	103,177,651.62	151,077,000.00
North Dakota	2,687,220.60	51,391,779.40	54,079,000.00
Ohio	65,090,163.09	153,384,836.91	218,475,000.00
Oklahoma	1,002,988.65	90,577,011.35	91,580,000.00
Oregon	41,072,288.03	53,891,711.97	94,964,000.00
Pennsylvania	183,195,864.78	164,351,135.22	347,547,000.00
Rhode Island	43,285,487.27	38,467,512.73	81,753,000.00
South Carolina	34,301,912.68	74,323,087.32	108,625,000.00
South Dakota	16,850,681.83	36,719,318.17	53,570,000.00
Tennessee	2,011,513.00	141,748,487.00	143,760,000.00
Texas	10,374,170.68	436,543,829.32	446,918,000.00
Utah	14,035,367.00	67,603,633.00	81,639,000.00
Vermont	9,584,964.00	32,672,036.00	42,257,000.00
Virginia	7,337,556.30	205,227,443.70	212,565,000.00
Washington	28,371,262.27	194,904,737.73	223,276,000.00
West Virginia	13,166,506.74	102,167,493.26	115,334,000.00
Wisconsin	18,927,622.86	93,133,377.14	112,061,000.00
Wyoming	5,887,325.48	45,582,674.52	51,470,000.00
Dist. of Col.	44,541,960.00	8,460,040.00	53,002,000.00
Puerto Rico	9,642,931.71	20,323,068.29	29,966,000.00
Total	1,793,147,997.90	5,980,589,002.10	7,773,737,000.00
Administration			193,600,000.00
Forest Highway			32,663,000.00
Total			8,000,000,000.00

LAPSING OF FUNDS

Senator Andrews: To what extent are funds "lapsing" from non-use because of the obligation limitation?

Response: No funds have lapsed in any state from non-use because of the obligation limitation. The purpose of the obligaiton limitation is to control Federal spending, but every effort is made to allow the States maximum flexibility within this constraint. With the exception of Interstate construction funds, authorizations are available for obligation for a 4-year period, which gives the States time to plan so that all funds may be utilized during their period of availability according to individual priorities in any given year. Interstate authorizations are available for 2 years, at which time they "lapse" and go into a discretionary fund to be distributed to States that are ready to obligate. This is not a true lapse, but merely an effort to maximize available funds in the short run to hasten early completion of the System. In the long run, no State is penalized because future Interstate apportionments are based on remaining cost to complete.

Finally, the law provides that all States be provided with obligation authority sufficient to prevent lapse of apportionments, except when a State intends to lapse Interstate funds.

MOTOR CARRIER SAFETY

Senator Andrews: Do you have any plans to reduce your hazardous materials inspection program in FY 1982, FY 1983, or beyond?

Response: No. We will continue to reprogram activities to concentrate reduced resources on our most important responsibilities. As in the current year, we will maintain a high level of safety audits and investigations in the area of hazardous materials, hazardous substances, and hazardous waste movements by highway. We will terminate truck noise measurement and cargo security surveys, as well as de-emphasizing general accident investigations and routine complaint investigations. We will continue to work with the States in promoting State motor carrier safety and hazardous materials programs through provision of training for State enforcement officers and technical assistance to State program managers.

Senator Andrews: What distinguishes your ongoing inspection program from your demonstration program?

Response: The Demonstration Program was designed as a 3-year program to determine the safety benefits from increased State weight enforcement activities and an expanded heavy vehicle roadside safety inspection program using State forces and uniform procedures.

The program provides for expanded weight enforcement which includes the use of weighing-in-motion devices along with keeping permanent weigh stations open 24 hours a day, 7 days a week, and the use of portable scales to monitor by-pass routes resulting in the identification and removal from operation of a greater percentage of the overweight vehicles which attempt to avoid detection.

The increased roadside safety inspections in these States have identified a great number of vehicles found to be in unsafe or improper operating condition which have been placed out of service. Approximately 35 percent of the vehicles inspected using probable cause as a selection standard have been placed out of service for safety related defects.

There is no single State agency with the authority and responsibility for monitoring commercial vehicle safety, thus our State contracting agency in the Demonstration Program has had some unanticipated problems. For example - accident data collection.

Our ongoing vehicle inspection activities are an integral part of our total program. In 1981, we expended 10.7 percent of available field staff hours on vehicle inspections. We have forecasted an increase in staff hours for this activity in 1982 to 14 percent. As in other areas of our program, we are concentrating our reduced resources in the area of hazardous materials, hazardous substances, and hazardous wastes movements by highway. Beginning in January 1982, we implemented the Essential Elements Examination (EEE) procedures for use in the inspection of trucks. The EEE is basically an observable, limited inspection procedure for examining certain key components of a vehicle and critical documents of the driver to detect those violations and defects most often identified as causing or contributing to the severity of truck accidents while maximizing the use of limited resources. Vehicles are removed from the stream of traffic without any prescreening. If the flow of traffic is such that the staff member has a choice of several vehicles at the same time, the one which has an obvious out of service defect or which by its general condition appears most likely to be defective is selected.

Senator Andrews: Which are you proposing to eliminate?

Response: We plan to terminate the Demonstration Program after the planned 3 years, but to encourage the participating States as well as the other non-participating States to continue both weighing and safety inspections even though Federal funding assistance will not be available. We believe that all four States will continue both activities, but do not think that any will continue the safety inspections at the Demonstration Program level.

APPALACHIAN HIGHWAY SYSTEM

Senator Andrews: $80 million has been included in your request for the Appalachian Highway System. What is the purpose of this program?

Response: Since 1965, the 3,025-mile Appalachian Development Highway System has been under design and construction to stimulate growth and economic development. In 17 years, approximately 1,800 miles have been completed. We propose to transfer the responsibility for this highway program from the Appalachian Regional Commission to the Department of Transportation and to phase out this special program over the next four fiscal years.

Senator Andrews: Is legislation required before these funds can be used?

Response: Yes. Our legislative package will also propose that this program be funded from the highway Trust Fund.

Senator Andrews: Why can't the highway needs of the Appalachia area be met in the same manner that all of the other regions' highway needs are met?

Response: We basically agree that Appalachia should be treated like other regions. Therefore, we are proposing a four year phase-out, at $80 million per year, of special categorical funding for Appalachian highways. The purpose of the $320 million phase-out is principally to meet Federal commitments by repaying States for prefinanced projects and to complete stage construction projects.

WESTWAY

Senator Andrews: What are your plans in regard to the Westway project in New York?

Response: The FHWA will continue to work closely with the State and all parties in implementing this approved Interstate project.

Senator Andrews: What is the current status of the project?

Response: Construction work involving the placement of fill material in the river has been postponed pending further study of potential impacts on fish habitats.

HIGHWAY COSTS

Senator Andrews: What is the current trend in highway construction costs? Are they still increasing faster than the general rate of inflation or have they tapered off?

Response: Highway construction costs have decreased in five of the last six quarters and are now 6.8 percent below those of one and one-half years ago. Increases to highway construction costs have tapered off. During the same period, the Consumer Price Index has increased 14.4 percent.

Senator Andrews: How much do you anticipate completing the Interstate System will cost?

Response: The redefined cost to complete the Interstate System based on the 1981 Federal-Aid Highway Act redefinition of construction eligibility and on the 1981 Interstate Cost Estimate data is estimated at nearly $39 billion (State and Federal funds). Considering the slight rise in the cost index since 1979 (1981 estimate prices) and the obligations which have taken place since 1979, the theoretical present day completion cost is approximately $35 billion. It is not possible to predict what the ultimate cost might be because of the uncertainty of future inflation rates; however, if we assume an 8.6 percent annual inflation rate for FY 1983 gradually reduced to 4.0 percent by FY 1992, $4 billion (Federal funds) withdrawal level and annual authorizations of about $4 billion, the ultimate cost could be in the area of about $41 billion.

Senator Andrews: At current rates of inflation and highway funding levels, do you still believe the System can be completed by 1990?

Response: No, at the current funding level of $3.625 billion a year (Fiscal year 1984 through 1990) completion will not be possible until the early 1990's.

Senator Andrews: To what extent is completion at current funding levels contingent on withdrawing existing gaps from the System?

Response: We do not have precise projections but we estimate that $4.5 billion (State and Federal funds) in additional withdrawals from the System could make completion by the early 1990's possible at current funding levels.

ENVIRONMENTAL CHALLENGES

Senator Andrews: How many completed right-of-way projects are there being delayed by environmental challenges? What is the percentage (mileage) of these delays compared with the total in the Interstate System?

Response: There are relatively few projects that are being delayed by environmental challenges where a significant amount of right-of-way has been acquired. Under Federal Highway Administration (FHWA) procedures, right-of-way acquisition usually occurs after the environmental analysis has been completed. Challenges normally come during this analysis period or immediately afterwards and before the stage in the project development process the right-of-way would be acquired. There are, however, eight Interstate projects (where significant right-of-way has been acquired) that are being challenged and delayed on environmental issues. While these eight projects represent only about 1/7 of one percent of the total Interstate System mileage, they are nevertheless significant because of the substantial increases in costs that are occurring while the projects are delayed. They also cause concern because vital links on the System remain unavailable for public use.

Senator Andrews: What is FHWA's policy regarding continued land acquisition (for Right-of-Way projects) challenges in the courts?

Response: FHWA policy in this area is contained in the provisions of 23 CFR 712.204(d) which allows limited acquisition in the case of hardship or protective buying prior to the processing of the final environmental impact statement. The FHWA acquisition policy in this case is limited by the National Wildlife Federation vs. Tiemann case. The FHWA may only acquire a parcel or limited number of parcels within the limits of a proposed highway corridor prior to the completion of processing an environmental impact statement only if the state highway agency has notified the public that it has selected a preferred alignment or a public hearing was held. The FHWA may only acquire a parcel or a limited number of parcels to alleviate a particular hardship to a property owner, on his request, in contrast to others because of inability to sell his/her property.

Senator Andrews: Has FHWA reviewed these projects to determine the probability that they will ever go forward?

Response: FHWA field offices (Region and Division) routinely review the progress of all projects, particularly those delayed through environmental challenges. Interstate gaps are given special attention due to the provisions of the Federal-Aid Highway Act of

1978 which requires for each remaining section the submission on an environmental impact statement to the Secretary by September 30, 1983, and the awarding of the contract for construction by September 30, 1986.

Senator Andrews: Has FHWA terminated any projects because of environmental concerns and what is the policy regarding such terminations?

Response: Former Secretaries of the Department of Transportation have formally disapproved a few projects in the past because of environmental concerns. These were rare occurrences and under extraordinary circumstances. The disapproved projects include the following:

PROJECT	LOCATION	REMARKS
I-40, Overton Park	Memphis, Tennessee	
I-310, Riverfront Expressway	New Orleans, Louisiana	
Park Freeway West	Milwaukee, Wisconsin	
I-675	Dayton, Ohio	Subsequently approved in 1981

The FHWA policy is to review all environmental documents for proposed highway improvements to assure compliance with all Federal laws and regulations and to the extent reasonably possible and cost-effective to prevent or reduce adverse effects on the environment. There have been relatively few FHWA disapprovals of highway projects for environmental reasons because it is FHWA policy to work closely with the States at every stage of the project development from early planning to and including construction of the facility. During these various stages, environmental issues and concerns are identified and monitored. Every possible effort is made by FHWA to modify the project concept or the environmental document while the document is being developed so that it will be approvable when submitted. If the environmental impacts are determined to be so severe or of such a nature that they would do serious harm and no solution can be found to eliminate or mitigate them to FHWA's satisfaction, then the State usually withdraws the project voluntarily.

RAILROAD-HIGHWAY CROSSING DEMONSTRATION PROGRAM

Senator Andrews: What have been the accomplishments of the Railroad-Highway Grade Crossing Demonstration Projects?

Response: Under this demonstration program, sufficient funds are available for completion of four of the smaller projects that required less than $10 million each and consisted mainly of grade separations. Also, completion of a medium-sized railroad relocation proposal costing about $40 million will be possible. Additionally, lower-cost usable segments, such as independent grade separations, for several projects can be completed. Finally, the major rail relocation proposals have or will be advanced to the point where an environmental impact statement and an overall conceptual plan will be adopted.

Senator Andrews: What has been learned from these projects?

Response: Based on the program progress to date, we have drawn the following conclusions:

- The overall progress in developing a specific railroad-highway demonstration project is comparable to a major highway project in an urban area. As with major highway improvements, a railroad relocation project can have substantial impacts on an urban area and effective community participation is essential if there is to be orderly development without delays.

- For project proposals impacting multiple railroads, cooperation of the involved railroads is essential if the project is to be successfully advanced.

- For the larger projects involving significant railroad relocations, initial cost estimates tend to be too low. For instance, for several of these projects, present cost estimates are nearly triple the original estimates. Although some cost increase can be attributed to inflation, it appears that as the conceptual plans are more fully developed the magnitude of the project costs quickly increases.

- Overall project costs continue to escalate and it is projected over $1 billion would be needed if the presently proposed solutions to these projects were to be funded to completion.

- The high Federal match on these projects plus the lack of definition of project scope in the enabling legislation does not create an atmosphere conducive to developing anything less than the most comprehensive and, generally, the most costly solutions.

- High cost projects such as these focus our limited transportation resources on a narrow range of activities. We do not favor this approach but instead support a process, such as our regular Federal-aid program, which allows States to select and initiate transportation projects on a priority basis.

Senator Andrews: What was the total amount expended?

Response: We have allocated to the projects for specific activities all of the $126.578 million appropriated to date. As of February 28, 1982, $80.106 million had been obligated.

Senator Andrews: How many projects were actually completed through the final stage? Please identify the projects and the amounts.

Response: Present funding will allow for the full completion of the following projects:

RAILROAD-HIGHWAY CROSSING DEMONSTRATION PROJECTS TO BE COMPLETED

Project	Federal Funds Allocated ($000)
New Albany, Indiana (completed)	$ 2,575
Anoka, Minnesota (completed)	2,915
Elko, Nevada (under construction)	40,430
Greenville, Texas (in right-of-way phase)	9,500
Terre Haute, Indiana (in final design phase)	7,000
	$ 62,420

TERRITORIAL HIGHWAY PROGRAM

Senator Andrews: Why are you requesting that no funds be appropriated for Territorial Highways in fiscal year 1983?

Response: In response to desires expressed by the territories that they should have greater flexibility in the use of Federal grants for their own priorities and in response to Title V of Public Law 95-134, the Federal Highway Administration (FHWA) has been working toward consolidation of all transportation assistance. This effort, coupled with the President's Economic Recovery Program, led FHWA to propose termination of the Territorial Highway Program and recommend funding of highway projects by the Department of the Interior. Under this provision the territories could finance highways from unrestricted block grant funds if the priorities are high enough.

DARIEN GAP HIGHWAY

Senator Andrews: Why is the Federal Highway Administration (FHWA) phasing out its participation in the Darien Gap?

Response: The FHWA is not necessarily phasing out its participation in the Darien Gap. What we are doing is phasing out our Division Offices in Colombia and Panama pending receipt of additional appropriations which are needed to reestablish participation in new construction. Our most recent funding request was for $7.5 million which would have been a supplemental appropriation for Fiscal Year 1981. That request was denied by the House Committee on Appropriations because the committee did not believe the project should be accorded a higher priority than numerous domestic programs which are being reduced, delayed or terminated. Since that time, the President has informed the Presidents of Colombia and Panama that he had instructed Secretary of Transportation Drew Lewis to look forward to the receipt of a new proposal from their countries and to bring it to the attention of members of Congress in the hope of rekindling interest in the project.

ACCESS HIGHWAYS TO LAKES

Senator Andrews: For which projects, and in what amounts, are funds being obligated in fiscal year (FY) 1982 and FY 1983 for Access Highways to Public Recreational Areas on Certain Lakes?

Response: The following table shows the projects to be placed under contract during these two fiscal years:

ACCESS HIGHWAYS TO LAKES PROJECTS TO BE PLACED UNDER CONTRACT
FISCAL YEAR 1982 AND FISCAL YEAR 1983

		Estimated Obligations By Fiscal Year ($000)	
State	Project	1982	1983
California	Parrots Ferry Road	$ 1,000	$
Indiana	Lake Monroe	3,200	
	Lake Patoka		4,300
New Mexico	Access Road to Sims Mesa		2,250
North Dakota	Tobacco Garden Road	1,200	
	St. Mary's Township Road	200	
	New Town Road		5,000
	Access to Lake Sakakawea		3,590
Pennsylvania	Bliss Road, Tioga County		1,875
	Route T-430, Huntingdon County[1]	2,400	
		$ 8,000	$ 17,015

[1] Project is somewhat doubtful due to lack of local matching funds.

VALUE ENGINEERING

Senator Andrews: In September of last year the Transportation Research Board issued its report of a study of the Value Engineering (VE) programs in eight State transportation departments and the Corps of Engineers. The report concluded that "the application of VE . . . is effective enough to warrant increased use by State highway and transportation agencies." Since that Report was sponsored by American Association of State Highway and Transportation Officials (AASHTO) and Federal Highway Administration (FHWA), what has your agency done to implement more aggressively the findings of the report?

Response: The VE program in FHWA has continued as in previous years to actively promote VE concepts with training workshops being offered by the National Highway Institute. In addition, VE was naturally made a part of our emphasis program on cost-cutting techniques in highway design, construction, and maintenance. A recent informal survey indicated that 29 States regularly use or have used VE analysis in preconstruction activities and 28 States use a form of VE incentive clauses in construction contracts to evaluate contractor ideas and share resultant cost savings with them.

There are plans to continue the VE training for an additional 35 presentations. Proposals are being solicited from VE firms to provide instructors for these workshops.

Senator Andrews: According to information provided the Committee, the Environmental Protection Agency has had a Value Engineering program since fiscal year (FY) 1975. Since FY 1977, it has been mandatory that VE be applied to every sewage treatment plant construction project over $10 million. From FY 1977 through FY 1981, against $5.2 billion in construction costs of 143 projects reviewed, the EPA achieved net savings of $234.5 million, a net savings of 4.5 percent with a return on investment of more than 16.1. This is the only mandated program in the Federal Government, and its overall performance is unmatched by that of any other agency. Why is there reluctance on the part of FHWA to require the use of Value Engineering?

Response: The FHWA has always had a partnership relationship with the States which is second-to-none in grant-in-aid programs. With this relationship in mind, we first attempt to persuade States to adopt improvements in procedures before we consider an inflexible requirement. We have made technical assistance and training in VE available to all States up to the limits of available budgets for this type of activity. The States have been very receptive to the VE concept.

The application of VE to a project of a particular dollar value is not always the best approach. We considered a mandate similar to the EPA approach in 1980 when we were consolidating our anti-inflation program, but we discarded that option when our full-time VE coordinator recommended that other indicators were better than dollar value. We now recommend to the States that VE be used: (1) when a cost versus value received imbalance appears, (2) on obviously high-cost projects; or (3) on standard details which are used repetitively on many projects. We believe that the States who have chosen not to actively pursue a VE program will follow the lead of the actively involved States in the near future. The adoption of VE as a standard technique and active program has not stagnated. More States initiate programs each year and we expect that to continue in response to our current efforts.

Senator Andrews: The Committee was also informed that last year, at the urging of the FHWA, the New York State Department of Transportation (NYSDOT) hosted a Value Engineering workshop on the $2.4 billion Westway project. We were told that the Value Engineering workshop, conducted under the auspices of the National Highway Institute, recommended savings on two segments of the Westway amounting to roughly $105 million. Has the FHWA followed through on this matter to determine to what extent the recommended savings are being implemented?

Response: The suggested savings from the workshop are being looked into by NYSDOT during preliminary design and must receive FHWA approval during the final design review. It is too early to determine which of the suggestions have been implemented.

Senator Andrews: Has the FHWA encouraged the State of New York to continue the application of VE to the design of other segments of the Westway project?

Response: The NYSDOT is finalizing a contract to hire a VE consultant to review all of the Westway plans. The final contract has not been submitted to FHWA at this time.

Senator Andrews: Has the FHWA taken any action to encourage other States to perform Value Engineering on the design of other major projects?

Response: The FHWA's VE efforts have consisted of education and encouragement through our workshops. It is our aim to make the States self sufficient in obtaining the benefits of VE within their own organization. We operate on the premise that the program should be voluntary on the part of the State highway agencies. Some States have initiated very effective internal programs, but others are reluctant to break with traditional operating procedures.

Questions Submitted by Senator Weicker

INTERSTATE TRANSFER GRANTS

Mr. Weicker: I understand that the Federal Highway Administration has recommended $150 million for fiscal year 1983 for substitute highway projects under the Interstate transfer grant program. I also understand that this portion of the Interstate transfer grant program will be financed through the Highway Trust Fund.

Considering that the substitute highway projects under the Interstate transfer grant program are valued at nearly $9 billion, how does the Administration propose to meet this escalating funding for these projects? Besides earmarking by the Congress, what criteria does the Administrator use for funding individual projects?

As you know, the conference report to HR 4209, Department of Transportation Appropriations, Fiscal Year 1982, includes the following language:

> The conferees note that Portland and Hartford are two of five regions which were entitled to contract authority prior to the recision of that authority by the Department of Transportation and Related Agencies Appropriations Act, 1980. The conferees reaffirm the language included in that year's House Committee report, which is as follows:
>
>> In making this recision and replacing it with direct appropriations, the Committee does not intend to disturb any existing commitments or the total amount of funding that these areas are eligible to receive.

Does the Administrator believe that FHWA has a commitment to fund those regions with contract authority, based on the language from both conference reports? Can the Hartford, Connecticut, region, for instance, which has original contract authority valued at $189.4 million (base cost) and $426.4 million (adjusted cost, as of

March 31, 1981), be guaranteed obligations of these funds by the Department, if projects are ready?

Response: Currently, the remaining unfunded entitlement for substitute projects is near $5.7 billion. We are hampered in making long term projections on transfer program needs because further withdrawals will be allowed until the 1983 deadline. However, in 1981, after considering earmarking by Congress, we made allocations to those areas which had withdrawals approved on the basis of their current needs. This was effective in that it provided funds to all areas and used the funds on ready-to-go projects.

We will continue to support the need for adequate funding levels for the transfer program consistent with current and future fiscal restraints. FHWA is committed to funding all remaining authorizations to the extent the funds are appropriated in order to meet the deadlines.

INTERSTATE TRANSFER GRANTS - HIGHWAY TRUST FUND FINANCING

Senator Weicker. What is the Administration's justification for financing substitute highway projects from the Highway Trust Fund?

Response. The proposal to fund the Interstate Transfer Grants from the Highway Trust Fund is based on our general philosophy that most highway construction programs should be financed from the user supported Highway Trust Fund as opposed to the general receipts of the Treasury.

QUESTIONS SUBMITTED BY SENATOR CHILES

STATUS OF USER FEE INCREASE

Senator Chiles: Earlier this month we had the opportunity to discuss a number of highway matters with Secretary Lewis. We discussed the disrepair of our Nation's highways and bridges. We discussed the fact that the cost of building highways and bridges has actually come down and we now have a buyers market for highway construction. And I believe that you mentioned that fact in your opening statement. We also discussed that highway construction creates jobs and now is a good time to do that.

Mr. Barnhart, Secretary Lewis agreed with us that now would be a good time for more highway construction and increased funding was contingent on getting the 5¢ gas tax increase improved.

I understand that Secretary Lewis met with the White House on this subject earlier this month. What is the status of the Administration's considerations of a gas tax increase?

Response: While the Administration does not support an increase in the excise tax in FY 1983, increases in out-years is a consideration. Further, we believe the fuel tax is a highway user charge and should be considered differently from excise taxes supporting the General Fund. In fact, as of this date, the user fee concept is still being considered within the Cabinet Council on Economic Affairs. The whole question of the level and structure of the highway-user charges supporting the Trust Fund is under debate within the Administration at this time.

PROGRAM LEVEL FOR FEDERAL-AID PROGRAM

Senator Chiles: If the Administration does not propose a gas tax increase, will the Department support lifting the spending ceiling for the highway program? If not, why not?

Response: We would not propose lifting the obligation ceiling at this time without a commensurate increase in the revenues to the Highway Trust Fund. While it is true that continued restraints on highway spending would have serious consequences in the long run and while highway needs far exceed the program levels as currently proposed, we are committed to controlling the budget deficit and to manage the highway program within the anticipated revenues. The obligation limitations on the highway program is designed to limit the amount of outlays in the short run, while still addressing the most critical highway needs now existing throughout the Nation. If the revenues to the Highway Trust Fund were increased to a level more commensurate with the present funding needs, serious consideration could be given to increasing or eliminating the current obligation constraints on the program.

REDUCTION IN FEDERAL-AID HIGHWAYS OBLIGATION CEILING

Senator Chiles. In view of the need for more highway spending, why has the Administration proposed to reduce the Federal-aid to highways program by $300 million by setting the ceiling at $7.7 billion?

Response. Although we realize that the proposed obligation ceiling for the Federal-aid Highway program is not sufficient to address the Nation's needs in the highway program, given the current budget constraints and the estimated revenues to the Highway Trust Fund, a $7.7 billion obligation level is the maximum that can be accommodated under the present economic circumstances.

SPENDING AUTHORITY TO MATCH DISCRETIONARY CONTRACT AUTHORITY

Senator Chiles. Mr. Administrator, as you know, the spending ceiling imposed on the Federal highway programs prohibits the States from spending all the contract authority that is made available to them. By this means, we are sort of giving with one hand and taking away with the other. For example, in Florida last year $107 million of contract authority that was made available could not be spent, and in fiscal year 1982 roughly $118 million is projected not to be spent simply because of the constraints of the spending ceiling.

Florida is one of those fast-spending States. In 4 out of the last 5 years, Florida was the first State to bump up against its spending ceiling. Essentially, all of the contract authority that Florida has not been able to spend it receives through the discretionary programs, the Interstate Discretionary program, the Priority Primary program, and the Discretionary Bridge program. As you know, there is no allocation of spending authority to the States for these discretionary programs.

Mr. Administrator, would you support a change in the legislation to insure that States receive an allocation of spending authority based on all contract authority that they receive instead of an allocation based just on the allocation they receive from the nondiscretionary programs?

Response. Basically, we feel that the allocation of discretionary funds to the States in and of itself provides those allocatees with certain advantages not enjoyed by those States that do not receive allocations of discretionary funds. To provide obligation authority to go with each allocation of discretionary funds while still maintaining a total obligation limitation, only about 20 States would benefit, while the remaining 32 States would be forced to absorb this additional allocation. Given the obligation limitation is somewhat commensurate to the funds apportioned to the States in each fiscal year, including the discretionary funds as a part of the distribution formula significantly distorts the overall allocation of the spending authority. This distortion is highlighted by the fact that if allocations of discretionary contract authority had been included in the F.Y. 1982 distribution formula, some of the States receiving allocations of discretionary funds, including Florida, would have received less obligation authority than they received by including only the "apportioned" funds in the formula. Since we must view the fairness of all limitations on a National equity basis, we feel that including the allocation of discretionary funds in the distribution formula would create inequities in the administration of the obligation limitation among the States as a whole. Therefore, I would recommend that we continue to administer the obligation limitation as we are now doing, even though some States may feel that there are some inequities in the procedures.

EXEMPTION OF INTERSTATE COMPLETION FROM THE SPENDING CEILING

Senator Chiles. Last year at this time, Florida had 300 miles of incompleted Interstate. Now the State has approximately 200 miles left to go with 50 of those miles under construction. Our State is proud of the progress it has made in the last year and is anxious to complete the system and completing the Interstate system is one of the stated objectives of the Administration. In view of that fact and the job-creating nature of highway construction programs, what would your reaction be to exempting Interstate construction entirely from the spending ceiling, to permit the States to proceed to spend all of the contract authority made available to them for that purpose?

Response. We would agree that completion of the Interstate system is one of the top priorities of this Administration, but if we were to exclude Interstate construction for the obligation limitation entirely, it would tend to defeat the purpose of the obligation limitation, which is to control outlays in the short run. In this time of budget constraints and limited revenues, we feel that this action would be undesirable. It is also noted that the Federal Highway Administration has maintained a general philosophy of restraining from establishing the relative priorities of the various highway programs, and excluding Interstate construction from the limitation would, in fact, be forcing the States to spend their matching funds on the Interstate program first. I continue to advocate the administration of the obligation limitation as we are now doing. However, should the economic situation change to permit a program level that would be more commensurate with the highway needs, perhaps some adjustment in how we administer the obligation limitation could be accommodated.

PRIORITY PRIMARY PROGRAM

Senator Chiles: Would it make more sense, and provide a more orderly transition for the States to fund those projects now in the pipeline over time, and let the program wind down as currently approved projects are completed?

Response: The Federal Highway Administration has proposed to terminate the discretionary priority primary program as of September 30, 1982. The proposal would return the funds from the discretionary set-aside to the parent primary apportionment and allow all the States to decide priorities for projects.

The termination and return of the responsibility for determining priorities to the States are consistent with the redefinition of Federal responsibility which says Federal funds will be for programs of national significance. The existing priority primary program was benefiting a few States at the expense of all the others and was developing into a long-term commitment by the Federal government to a few projects costing well in excess of $3 billion.

Projects currently involved in the discretionary priority program will have to compete with other projects for funding under the primary program. Their overall priority, as determined by the States, will dictate whether they are funded, not the legislative history developed for the discretionary funding.

Senator Chiles: Would you be willing to consider an alternative proposal such as this to avoid the heavy opposition which you can expect from this Senator and others in the Senate and House if you again propose to cut this program off in mid-stream?

Response: Projects currently being financed under the discretionary set-aside will continue to be eligible for regular primary funds. Under discretionary funding, many projects with the requisite legislative history received so little funds that the progress towards their completion was very slow. This has been the result of additional candidates being introduced for financing each time significant legislation was enacted. There are several other candidate projects waiting for an opportunity to obtain the appropriate legislative exposure.

Therefore, rather than continue the discretionary set-aside and allow the proliferation of candidate projects at the expense of those States which have no candidate projects, but which have similar urgent needs, the program should be terminated now.

BID RIGGING

Senator Chiles: Mr. Barnhart, based on recent indictments in Illinois, North Carolina, Virginia, Georgia, Florida, and other States, bid rigging by contractors on highway and aviation projects appears to be widespread throughout the Nation. This rip off has apparently been going on for 20 years or longer at the expense of the taxpayers.

What is your Department doing to help the States eliminate bid rigging by contractors?

Could you give the Subcommittee some feel for the losses incurred so far by the Federal taxpayers as a result of bid rigging on Federal-aid highway and aviation projects?

What do you think the Congress should do to help your Department and the States eliminate bid rigging?

Response: We are continuing to work with the State highway agencies, the U. S. Department of Justice and the Inspector General's Office to aid them in their investigations anyway we can. On December 29, 1980, we provided guidance to our field offices and State highway agencies on the subject of preparing engineer's estimates and reviewing bids. In calendar year 1981, Federal Highway Administration (FHWA) staff members assisted the American Association of State Highway and Transportation Officials (AASHTO) Task Force on Estimating and Bidding Procedures in developing guidelines which could be used by each State, at its sole discretion, to strengthen its current procedures concerning the detection, prevention, and treatment of antitrust violations. Further, efforts are currently underway in FHWA to develop guidelines on bid review and evaluation that will build upon information previously provided to our field offices and State highway agencies. Also, we are pursuing the development of a computer program that will be made available to the State highway agencies to assist them in the detection of bid rigging.

In accordance with our regulations, FHWA has taken unacceptability for employment action, from 1979 through April 1982, against 47 companies and 48 individuals because of irregularities on Federal-aid highway contracts. In addition to this action, the Inspector General's Office is currently developing regulations on debarments and suspensions that would apply to all agencies in the Department of Transportation. It is expected these regulations will be finalized in the near future.

At this time, we are unable to provide a specific dollar amount that the Federal taxpayer has been overcharged due to bid rigging. Through information available to us, we do know that since 1979, approximately 78 corporations have either been convicted or pled guilty along with approximately 100 individuals who were found guilty of bid rigging activities in 14 States. Also, these same firms and individuals have been fined, by Federal courts, a total amount of approximately 20 million dollars.

We do not know what percentage of the projects involved in the illegal bid activities were Federal-aid projects. While some States have been able to determine that project costs may have been increased as much as 10 percent because of bid rigging, other States have not been able to identify the actual cost increase. In general, the Federal-Aid Highway Program accounts for approximately one-half of all dollars spent nationwide on highway construction. In one State, approximately 800 million dollars worth of contracts were awarded during a 6 year period to 41 contractors who have since been convicted of illegal bidding practices. Damages by the State have been collected totaling approximately 10 million dollars, based on negotiated settlements. Any specific estimate at this time on the actual increased cost to Federal taxpayers because of bid rigging would be pure conjecture.

At this point, we do not feel any additional legislation regarding illegal activities such as bid rigging is warranted. We do believe that additional law enforcement/investigation efforts are necessary to assure that current laws/regulations are being complied with. Therefore, we do ask that sufficient funds and staff be provided to the Office of Inspector General to allow them to adequately investigate any suspected illegal activities. Also, Congress should encourage those departments and agencies who do not currently have formal debarment/suspension regulations to develop them.

STATE CAPABILITIES TO FUND TURNBACK PROGRAMS

Senator Chiles: Mr. Administrator, the New Federalism proposal I understand continues to be in flux. Originally, the proposal was to have all programs turned back to the States except Interstate and Interstate maintenance.

The States seem to be experiencing increasing difficulty in preserving the condition of the Nation's highways even with the existing Federal assistance. If so, can the States absorb the increased costs resulting from the Federal turnover? How can we assure that the significant Federal investment in these roads will be preserved?

Response: I agree that completion and preservation of the Interstate System commands the highest national interest because it is essential for the national defense and the free flow of interstate commerce. The primary system has similar characteristics and retention of a Federal role in this system appears justified, but a final decision has not been made.

I support a turnback to the States of appropriate highway programs, such as the urban and secondary systems and most off-system bridges, along with sufficient funds to support these needs. The 2-cent per gallon proposal would be adequate for the programs I believe should be returned to the State and local governments.

We anticipate that States will determine their own needs on the lower-order systems and will seek increased revenues as appropriate to their needs and funding preferences. The State and local governments will then have increased flexibility to spend their highway revenues according to their own priorities, without distortion in States' prerogatives or overinvestment in particular systems that is often stimulated by categorical Federal funding. By establishing their own priorities for funding and using their own guidelines for construction projects, the States should be able to meet their needs.

States traditionally have relied on fuel taxes and registration fees to finance highway improvements. We believe that these fuel taxes and fees will continue to provide the major highway funding source in the future. At the present, at least one-third of the State legislatures are considering raising their highway user fees. Approximately 60 percent of all capital investments on the urban system, and approximately 70 percent on the secondary system, are currently provided by State and local revenues.

Relaxation of Federal requirements and turnover of certain program responsibilities to the States will enable State and local highway authorities to select their own project priorities and apply their own management procedures and standards. We estimate that phase-out of Federal involvement in the secondary program, for example, could reduce the secondary system needs estimate for maintenance of conditions by up to 33 percent. This estimate is based on our "needs" analysis and assumes that States would utilize more cost-effective design standards in rural areas. In urban areas, the compliance cost for certain regulations could also be eliminated and would produce a savings.

REDUCTION IN FEDERAL REGULATIONS

Senator Chiles: In last year's hearings you referred to the added costs of highways resulting from Federal regulations, requirements, and red tape. A. To what extent has the Federal Highway Administration been successful in reducing this red tape? B. Can you provide any estimates of cost savings resulting from this reduction? C. What Federal requirement(s) do you believe has resulted in the greatest cost growth? How would you revise or modify these requirements?

Response: A. During the past year, a summary of FHWA rulemaking activity and regulatory reviews indicates that only one new regulation was issued (Minimum Levels of Financial Responsibility for Motor Carriers - issuance required by statute); eight amendments to existing regulations were issued (six of which were designed to eliminate burdensome requirements and cut costs); only six rulemaking actions were initiated (five of which were red tape reduction or cost reduction proposals); five regulations were either withdrawn or rescinded; eleven proposed rulemaking actions were withdrawn from the Regulations Agenda; 26 proposed rulemaking actions and 60 existing regulations were under review; priority reviews of program requirements in eight major areas were completed and recommendations forwarded to the Office of the Secretary (five reports have been approved and implementation is underway); all mandates associated with the Federal-aid highway program were under review; and over a dozen amendments to existing regulations were under active development in order to cut red tape and delay, streamline existing procedures, reduce costs and increase flexibility. The above summary represents a concerted effort on the part of the FHWA to reduce regulatory costs and paperwork burdens so as to improve the administration of the Federal-aid highway program. B. Escalating highway construction costs can directly result from time delays attributable to a State's attempt to comply with Federal requirements for a given project. By streamlining procedures, eliminating unnecessary requirements, and increasing State flexibility, the FHWA is making it possible for States to meet project requirements in a more timely and efficient manner and thus overall construction costs are reduced. While it is difficult to estimate the cost savings attached to a particular regulatory reduction action, it is anticipated that real savings will result from the cumulative effect on the entire Federal-aid highway delivery process. C. Clearly the Federal requirements responsible for the greatest cost growth are cross-cutting requirements mandated by statutes other than title 23 of the United States Code. These generally applicable statutes and their implementing regulations, many of which are in the environmental area, often result in duplicative and costly program requirements with little additional benefit to the public. The FHWA has conducted comprehensive priority reviews in such areas in order to make recommendations which would relieve duplicative requirements, streamline procedures, and reduce costs. Many of these recommendations have been submitted to the Vice President's Task Force on Regulatory Relief and are being considered for inclusion as part of the Administration's forthcoming legislative proposals.

COMPLETING THE INTERSTATE SYSTEM

Senator Chiles: In last year's hearings, we discussed at some length the current funding levels, anticipated inflation rates, and definition of completion.

What is the current trend in highway construction costs? Are they still increasing faster than the general rate of inflation or have they tapered off?

Response: Highway construction costs have decreased in five of the last six quarters and are now 6.8 percent below those of one and one-half years ago. Increases to highway construction costs have tapered off. During the same period, the Consumer Price Index has increased 14.4 percent.

Senator Chiles: How much do you anticipate completing the system (as completion has recently been redefined) will cost?

Response: The redefined cost to complete the Interstate System based on the 1981 Federal-Aid Highway Act redefinition of construction eligibility and on the 1981 Interstate Cost Estimate data is estimated at nearly $39 billion (State and Federal funds). Considering the slight rise in the cost index since 1979 (1981 estimate prices) and the obligations which have taken place since 1979, the theoretical present day completion cost is approximately $35 billion. It is not possible to predict what the ultimate cost might be because of the uncertainty of future inflation rates; however, if we assume an 8.6 percent annual inflation rate for FY 1983 gradually reduced to 4.0 percent by FY 1992, $4 billion (Federal funds) withdrawal level and annual authorizations of about $4 billion, the ultimate cost could be in the area of about $41 billion.

Senator Chiles: At current rates of inflation and highway funding levels, do you still believe the system can be completed by 1990?

Response: No, at the current funding level of $3.625 billion a year (Fiscal Year 1984 through 1990) completion will not be possible until the early 1990's.

Senator Chiles: To what extent is completion at current funding levels contingent on withdrawing existing gaps from the System?

Response: We do not have precise projections but we estimate that $4.5 billion (State and Federal funds) in additional withdrawals from the System could make completion by the early 1990's possible at current funding levels.

SUBCOMMITTEE RECESS

Senator Andrews. I appreciate your testimony, and the subcommittee will stand in recess.

[Whereupon, at 11:15 a.m., Thursday, March 25, the subcommittee was recessed, to reconvene at 10 a.m., Monday, March 29.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

MONDAY, MARCH 29, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:05 a.m. in room 1318, of the Everett McKinley Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senator Andrews.

CIVIL AERONAUTICS BOARD

STATEMENT OF DAN McKINNON, CHAIRMAN

ACCOMPANIED BY:

- MICHAEL SHERWIN, ACTING MANAGING DIRECTOR
- DAVID KIRSTEIN, GENERAL COUNSEL
- FREDERICK J. ZIRKEL, DEPUTY COMPTROLLER
- JOHN HOKANSON, CHIEF, AIR CARRIER SUBSIDY NEED DIVISION
- DANIEL KAPLAN, DIRECTOR, OFFICE OF ECONOMIC ANALYSIS
- JOHN GOLDEN, DIRECTOR, OFFICE OF CONGRESSIONAL, COMMUNITY, AND CONSUMER AFFAIRS
- MARK KAHAN, ASSOCIATE DIRECTOR FOR LEGAL, ECONOMIC AND REGULATORY AFFAIRS, BUREAU OF INTERNATIONAL AVIATION
- JOHN COLEMAN, ASSOCIATE DIRECTOR, SUBSIDY POLICY AND PROGRAMS, BUREAU OF DOMESTIC AVIATION

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

We have the Civil Aeronautics Board appearing before our Subcommittee on Transportation. The key witness will be Dan McKinnon, the Chairman of the CAB.

Mr. McKinnon, your statement will be included as if it had been presented in full in the record. You may introduce the people with you at the table, and when you have run through your statement or whatever remarks you wish to make, we will proceed to questions.

INTRODUCTION OF ASSOCIATES

Mr. McKINNON. Mr. Chairman, I would like to introduce the staff I brought with me. I am mighty proud of them. I happened to inherit a very fine organization and some talented people who are well qualified for the positions they hold, and I would like to share them with you. I am proud of them.

First, I have one of the members of the Civil Aeronautics Board with me, Jim Smith. The other members of the Board are all busy in various negotiating sessions at the moment.

I also have with me Michael Sherwin, the Acting Managing Director; David Kirstein, our General Counsel; Fred Zirkel, our Deputy Comptroller; John Hokanson, Chief of the Air Carrier Subsidy Need Division; Dan Kaplan, who is Director of the Office of Economic Analysis; John Golden, who heads up our new combined Office of Congressional, Community, and Consumer Affairs; Mark Kahan, who is the Associate Director for Legal, Economic, and Regulatory Affairs of the Bureau of International Aviation; and also John Coleman, who is Associate Director of Subsidy Policy and Programs of the Bureau of Domestic Aviation.

We also have Jim Craun; Bob Goldner, my assistant; Pat Murphy, who is from the Bureau of Domestic Aviation and is the expert on subsidies for the essential air service program; and Altheria Hudson, who heads part of our Congressional and Community Relations staff.

Senator ANDREWS. Mr. Chairman, now that we know how well protected you are, you can proceed.

PREPARED STATEMENTS

Mr. McKINNON. I like to show off my people.

Mr. Chairman, we have a long opening statement to include in the record, and I stand ready to answer any questions you might have on our budget.

[The statement follows:]

Statement of Dan McKinnon

GOOD MORNING CHAIRMAN ANDREWS AND MEMBERS OF THE SUBCOMMITTEE. I WELCOME THIS OPPORTUNITY--THE FIRST BEFORE THIS SUBCOMMITTEE--TO DISCUSS THE BOARD'S 1983 BUDGET REQUEST, AND THE DIRECTIONS OUR PROGRAMS WILL BE TAKING.

AS I SEE IT, THE BOARD'S FUNDAMENTAL RESPONSIBILITY IS TO COMPLETE THE DEREGULATION PROCESS FOR DOMESTIC AIR TRANSPORTATION AND PROMOTE THE UNITED STATES INTERESTS IN INTERNATIONAL MARKETS.

AS CONGRESS CLEARLY SPELLED OUT IN THE AIRLINE DEREGULATION ACT OF 1978 (ADA) AND THE INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979 (IATCA), ENTREPRENEURIAL ABILITY DRIVEN BY A FREE MARKET ENVIRONMENT IS A BETTER REGULATOR THAN THE FEDERAL GOVERNMENT.

THE TRANSMITTAL OF THE BOARD'S 1983 BUDGET MARKS ANOTHER SIGNIFICANT MILESTONE IN CARRYING OUT THIS POLICY. THIS BUDGET SHOWS A REDUCTION OF $70.3 MILLION--49 PERCENT--FROM OUR 1981 EXPENDITURES AND REFLECTS A MAJOR ACCELERATION IN THE SYSTEMATIC PHASE-DOWN AND EVENTUAL ELIMINATION OF SEVERAL OF THE BOARD'S PROGRAMS.

WE HAVE ACCOMPLISHED THIS ACCELERATION BY RECOMMENDING THE ELIMINATION OF OUR SECTION 406 SUBSIDY PROGRAM AND BY TAKING ACTION TO OUTPLACE EMPLOYEES IN SUNSETTING POSITIONS AND TO TERMINATE ALMOST HALF OF OUR 55 TEMPORARY EMPLOYEES. MOREOVER, DESPITE THE RISING COSTS OF DOING BUSINESS, WE ARE MAKING SIGNIFICANT REDUCTIONS IN OUR NONPERSONNEL EXPENSES. OUR 1983 OPERATING COSTS ARE DOWN OVER $800,000 FROM 1981, AFTER ADJUSTING FOR THE DOUBLING OF RENT IN 1982. TO ACCOMPLISH THIS, WE HAVE SHARPLY CURTAILED TRAVEL, TRAINING, COMMUNICATIONS AND AUTOMATED DATA PROCESSING EXPENSES, CONSOLIDATED SPACE, AND HELD THE SPENDING LINE ON MOST OTHER ITEMS.

I WANT TO TAKE THIS OPPORTUNITY TO THANK THIS PANEL FOR ITS PAST AND--I HOPE--CONTINUING SUPPORT IN THIS ENDEAVOR. INSTEAD OF SPREADING OUR RESOURCES OVER A NUMBER OF AREAS, WE WILL NOW PLACE OUR EMPHASIS ON OUR CONTINUING RESPONSIBILITIES.

AS YOU KNOW, THE TWO HISTORIC PIECES OF LEGISLATION PASSED BY CONGRESS CALLED FOR NEW AND CONTINUING FEDERAL OVERSIGHT IN CERTAIN AREAS INCLUDING:

* INTERNATIONAL AVIATION
* SERVICE TO SMALL COMMUNITIES
* INFORMATION GATHERING

- CONSUMER PROTECTION
- MAINTAINING COMPETITION
- FITNESS DETERMINATIONS

IN ORDER TO DO THE IMPORTANT AND VITAL WORK IN THESE AREAS, THE BOARD--AFTER THOROUGH STUDY--HAS DEVELOPED A MINIMUM BUDGET REQUEST OF $24.5 MILLION FOR SALARIES AND EXPENSES (S&E) AND $48.4 MILLION FOR PAYMENTS TO AIR CARRIERS (PAC). FOR THIS REDUCED BUDGET, WE WILL CONTINUE TO OVERSEE SOME IMPORTANT ASPECTS OF AN INDUSTRY THAT ENPLANES OVER 290 MILLION PASSENGERS, EMPLOYS ABOUT 330,000 PEOPLE AND GENERATES OVER $35 BILLION REVENUE DOLLARS.

THE $24.5 MILLION SHOULD ALLOW US TO CONTINUE TO CONCENTRATE ON THOSE HIGH PRIORITY TASKS. IF EARLY SUNSET IS ENACTED, IT SHOULD ALLOW US TO TRANSFER INTACT THESE PROGRAMS AND SKILLED PERSONNEL TO OTHER AGENCIES WITHOUT MAJOR LOSS OF CONTINUITY.

WHETHER THE CAB DOES THESE FUNCTIONS OR WHETHER THEY ARE PERFORMED ELSEWHERE IN THE GOVERNMENT, THIS $24.5 MILLION WILL NEED TO BE APPROPRIATED.

AS WE DISCUSS THE DETAILS OF CAB OPERATIONS, LET'S TALK ABOUT INTERNATIONAL AVIATION FIRST.

THE BOARD, AS AN ARM OF CONGRESS, ALONG WITH THE DEPARTMENTS OF STATE AND TRANSPORTATION IN THE EXECUTIVE BRANCH, IS RESPONSIBLE FOR IMPLEMENTING INTERNATIONAL AVIATION POLICY.

OUR DUTIES INCLUDE NOT ONLY NEGOTIATING AND CONSULTING WITH FOREIGN GOVERNMENTS, BUT REGULATORY FUNCTIONS SUCH AS:

- LICENSING U.S. AND FOREIGN CARRIERS THAT PROVIDE SERVICE TO AND FROM THE UNITED STATES
- SELECTING CITIES AND CARRIERS FOR INTERNATIONAL SERVICES
- OVERSEEING FARES AND RATES
- ISSUING CONSUMER PROTECTION RULES
- AND APPROVING AND GRANTING ANTITRUST IMMUNITY FOR CERTAIN AGREEMENTS

IN SHORT, THE CAB, PERHAPS MORE THAN ANY OTHER AGENCY, IS RESPONSIBLE FOR EXECUTING THE UNITED STATES INTERNATIONAL AVIATION POLICY.

OUR WORK IS NOT EASY. THE PROCOMPETITIVE APPROACH, EMBODIED IN IATCA, HAS MET STIFF RESISTANCE FROM MANY FOREIGN COUNTRIES. THEY WOULD PREFER TIDY ARRANGEMENTS--CHARACTERIZED BY STRICT CONTROLS OVER ROUTES, CAPACITY, FREQUENCIES AND FARES--INSTEAD OF EXPOSING THEIR CARRIERS TO THE RIGORS OF

COMPETITION. THE WORSENING WORLD ECONOMIC SITUATION ACCENTUATES THIS PROTECTIONIST POSITION.

ALSO, SOME MAY HAVE CHARACTERIZED OUR NEGOTIATING APPROACH USED IN RECENT YEARS AS GIVING AWAY TOO MUCH, AND RECEIVING TOO LITTLE.

THAT MUST STOP.

THE UNITED STATES' AIR TRANSPORTATION MARKET IS THE WORLD'S KEY ROUTE "PLUM" AND WE SHOULD NOT GIVE IT AWAY FOR JUST PROMISES OF EQUAL BENEFITS. THE EXCHANGE MUST BE FAIR, AND BALANCED.

WHAT IS ON PAPER MUST BE LIVED UP TO WITH ACTIONS.

I CAN TELL YOU FROM PERSONAL EXPERIENCE THAT THIS NEW APPROACH WILL BE TESTED SOON. OUR CURRENT NEGOTIATING SCHEDULE INCLUDES: JAPAN, CHINA, THE PHILIPPINES, SCANDINAVIA, PORTUGAL, BRAZIL, EL SALVADOR, BARBADOS, WEST GERMANY, ISRAEL, THE UNITED KINGDOM, CANADA AND ECAC.

WE WILL INSIST TO THESE COUNTRIES THAT ONLY THROUGH FAIRNESS AND COOPERATION CAN THE RIGHTS AND NEEDS OF TRADING PARTNERS BE PROPERLY BALANCED TO REDUCE FRICTION, AND ENCOURAGE THE DEVELOPMENT OF A VIABLE INTERNATIONAL AIR TRANSPORTATION SYSTEM.

LET'S NOW TURN TO AIR SERVICE TO SMALL COMMUNITIES--OR THE ESSENTIAL AIR SERVICE (EAS)--PROGRAM. CONGRESS WISELY INCLUDED THIS PROGRAM UNDER SECTION 419 OF THE ADA TO ENSURE THAT DURING DEREGULATION, SMALL COMMUNITIES COULD MAINTAIN A LINK TO THE DOMESTIC AIR TRANSPORTATION SYSTEM.

WE RECOGNIZE THAT THE ECONOMY FOR MANY COMMUNITIES IS AIDED BY ACCESS TO THE NATIONAL AIR TRANSPORTATION SYSTEM. FOR SMALL--OFTEN REMOTE--COMMUNITIES, AIR SERVICE MAY BE A VITAL NECESSITY.

THE PROGRAM WORKS BY MAINTAINING FOR EACH COMMUNITY A SPECIFIED LEVEL OF AIR SERVICE--THAT IS--THE NUMBER OF FLIGHTS AND SEATS PROVIDED EACH DAY. ONCE THAT LEVEL IS THREATENED, WE WILL "HOLD IN" THE INCUMBENT CARRIER UNTIL A REPLACEMENT IS FOUND. IF NECESSARY, FEDERAL SUBSIDY WILL BE PAID TO ENSURE THAT ESSENTIAL SERVICE IS MAINTAINED.

WE HAVE SET UP A COMPREHENSIVE EAS PROGRAM THAT INCLUDES COMMUNITY PARTICIPATION AND PROVIDES RESPONSIBLE AND TIMELY DECISION MAKING. OUR FIELD OFFICES SERVE AS A CONDUIT OF INFORMATION BETWEEN THE COMMUNITIES AND THE BOARD, THUS WE ARE FULLY INFORMED OF THE COMMUNITIES' COMMENTS AND VIEWS WHEN MAKING EAS DETERMINATIONS. WITH THIS CLOSE TIE TO THE COMMUNITIES, OUR WASHINGTON STAFF IS BETTER ABLE TO:

- ESTABLISH EAS GUIDELINES
- PROCESS NOTICES AFFECTING SERVICE
- HANDLE APPEALS
- ESTABLISH SUBSIDY RATES
- SELECT REPLACEMENT CARRIERS
- DETERMINE THE FITNESS OF COMMUTER CARRIERS
- AND WHERE NECESSARY, ESTABLISH SUBSIDY RATES, AND LATER AUDIT AND PAY SUBSIDY CLAIMS

DESPITE A VERY TIGHT BUDGET, THE CAB WILL CONTINUE TO DEVOTE CONSIDERABLE ATTENTION TO THE EAS PROGRAM. WE ARE ALSO KEEPING A CLOSE EYE ON THE NEEDS OF SMALL COMMUNITIES SO THAT THEY ARE NOT SHORT-CHANGED IN THE PROBLEMS RELATED TO SLOT ALLOCATIONS AND THE CONTROLLER SITUATION.

WE ALSO WANT TO AVOID SERVICE DISRUPTIONS CAUSED BY THE PROPOSED TERMINATION OF SECTION 406. TO A LARGE EXTENT, HOWEVER, THIS TRANSITION IS ALREADY UNDERWAY AND SHOULD NOT CAUSE SEVERE SERVICE PROBLEMS.

THE LARGEST PART OF THE 1983 BUDGET IS THE $48.4 MILLION REQUESTED FOR THE SUBSIDY APPROPRIATION. THIS $66.1 MILLION REDUCTION AMOUNTS TO A 58 PERCENT DROP FROM 1981, AND STEMS FROM THE CAB PROPOSAL THAT THE SECTION 406 SUBSIDY PROGRAM BE TERMINATED AT THE END OF FY 1982.

WE BELIEVE THE TIME IS AT HAND TO RESOLVE THIS ISSUE.

WE CAN NO LONGER AFFORD THE COSTLY AIR SERVICE PROVIDED UNDER THE OBSOLETE 406 PROGRAM. THE INCREASINGLY SUCCESSFUL 419 PROGRAM HAS SHOWN THAT SERVICE AND COSTS CAN BE BROUGHT MORE INTO LINE WITHOUT UNDUE HARDSHIP TO AFFECTED COMMUNITIES.

WE SHOULD ALSO POINT OUT THAT OUR 1982 SUBSIDY REQUEST INCLUDES A $28.4 MILLION SUPPLEMENTAL. THESE ADDITIONAL FUNDS ARE NECESSARY TO CONTINUE FINANCING THE 406 PROGRAM UNTIL THE END OF FISCAL 1982, ALTHOUGH FUNDS WILL BE LIMITED AFTER MARCH 20, 1982 IN ACCORDANCE WITH APPROPRIATING LANGUAGE ADOPTED BY CONGRESS FOR 1982. OUR ORIGINAL REQUEST FOR 1982 WAS SHORT SINCE IT WAS BASED ON THE TERMINATION OF THE 406 PROGRAM AT THE END OF FISCAL 1981.

WE HAVE IMPORTANT CONTINUING WORK IN A HOST OF OTHER AREAS WHICH MAY BE SEVERELY CRIPPLED BY STAFF REDUCTIONS CAUSED BY FISCAL CONSTRAINTS. IF WE RECEIVE LESS THAN WHAT WE ARE REQUESTING IN THIS BUDGET, IT IS ONLY A MATTER OF TIME BEFORE IRREPARABLE HARM IS DONE TO ALL EXISTING CAB PROGRAMS.

FOR EXAMPLE, THE INFORMATION PROGRAM. OVER THE YEARS OF DEVELOPING THE BEST AIR TRANSPORTATION SYSTEM IN THE WORLD, WE HAVE ALSO DEVELOPED THE BEST AVIATION DATA BASE IN THE WORLD.

IT IS EXTENSIVELY RELIED ON BY CARRIERS, AIRPORT OPERATORS, AIRPLANE MANUFACTURERS, FOREIGN COUNTRIES, INTERNATIONAL ORGANIZATIONS, STATE AND LOCAL GOVERNMENTS, AND, OF COURSE, MANY OTHER FEDERAL AGENCIES, ESPECIALLY DOT. EQUALLY IMPORTANT, OUR INFORMATION SYSTEMS ARE ESSENTIAL FOR THE CONTINUED SUCCESSFUL OPERATION OF OUR INTERNATIONAL AND EAS PROGRAMS.

SINCE THE ADA WAS PASSED, WE HAVE CONTINUALLY REEVALUATED OUR INFORMATION NEEDS, PHASING DOWN WHEREVER POSSIBLE. WE HAVE MADE SUBSTANTIAL REDUCTIONS IN POSITIONS AS WELL AS IN REPORTING REQUIREMENTS--ALTHOUGH VOLUME INCREASES HAVE OFFSET MANY OF THE SAVINGS.

IN FACT, FROM 1978 to 1983, WE WILL HAVE DROPPED FROM OUR INFORMATION PROGRAM 81 JOBS--60 PERCENT. WE NOW BELIEVE THAT WE ARE AT THE MINIMUM LEVEL IN THIS PROGRAM.

LET'S ALSO LOOK AT THE CONSUMER PROGRAM. IN THE EARLY STAGES OF DEREGULATION, THE BOARD BUILT UP THE PROGRAM TO HELP THE PUBLIC COPE WITH THE INEVITABLE CHANGES IN AIRLINES' LONG ESTABLISHED OPERATING HABITS.

AS PART OF THIS EFFORT, WE DISTRIBUTED ALMOST ONE AND A HALF MILLION OF OUR FLY RIGHTS PAMPHLET, OPENED A NETWORK OF FIELD OFFICES, AND TRAINED NUMEROUS STATE AND LOCAL CONSUMER OFFICIALS. WE HAVE ALSO NOT HESITATED TO GO INTO THE COURTROOM WHEN NECESSARY.

THOSE EFFORTS HAVE PAID OFF. COMPLAINTS AGAINST AIRLINES HAVE DECLINED SHARPLY OVER THE LAST FEW YEARS, AND CONSUMERS SHOW GROWING SOPHISTICATION IN DEALING DIRECTLY WITH CARRIERS. WE HAVE CONSEQUENTLY BEEN REDUCING THE NUMBER OF STAFF DEVOTED TO THIS PROGRAM.

FINALLY, LET'S LOOK AT OUR DOMESTIC PROGRAM. THIS AREA, AS EXPECTED, WAS MOST HEAVILY AFFECTED BY THE ADA. AND COMMENSURATE WITH THE DECLINE OF OUR REGULATORY RESPONSIBILTIES OVER DOMESTIC ROUTES AND FARES, WE WILL HAVE DROPPED OVER 87 PERCENT--ALMOST 290 PEOPLE--IN THIS AREA SINCE 1978.

BUT LET'S LOOK AT THE WORK THE CAB STILL MUST DO:

* STATUTORY REQUIREMENT TO CONTINUE LICENSING AFTER DETERMINING A CARRIER'S FITNESS, AND TO CONTINUALLY MONITOR THE FITNESS OF ALL CARRIERS

- STATUTORY REQUIREMENT, WHICH EXPIRES ON JANUARY 1, 1983, TO REGULATE DOMESTIC FARES AND PROCESS DOMESTIC TARIFFS
- STATUTORY REQUIREMENT TO DETERMINE MAIL RATES
- STATUTORY AUTHORITY OVER MERGERS, INTERLOCKING RELATIONSHIPS, ANTICOMPETITIVE PRACTICES, AGREEMENTS, AND THE POWER TO GRANT CARRIERS ANTITRUST IMMUNITY. PART OF THIS RESPONSIBILITY--AUTHORITY OVER DOMESTIC MERGERS AND INTERLOCKS--IS SCHEDULED UNDER THE ADA TO TRANSFER TO DEPARTMENT OF JUSTICE ON JANUARY 1, 1983. THE RESOURCES FOR THIS TRANSFER OF FUNCTIONS ARE INCLUDED IN THIS BUDGET REQUEST
- OVERSIGHT RESPONSIBILITY FOR DOMESTIC CHARTER AIRLINES, TOUR OPERATORS, AIR CARGO AND AIR TAXI OPERATORS, AND AIR FREIGHT FORWARDERS
- AND LAST, BUT NOT LEAST, RESPONSIBILITY BY EXECUTIVE ORDER FOR CONTINGENCY PLANNING FOR THE AIRLINE INDUSTRY DURING ANY NATIONAL EMERGENCY. THIS INCLUDES THE IDENTIFICATION AND MAINTENANCE OF ESSENTIAL AIR ROUTES AND SERVICES, REALLOCATION OF AIRCRAFT AND THE ESTABLISHMENT OF PRIORITIES FOR THE MOVEMENT OF TRAFFIC.

WHAT ALL THIS MEANS--VERY SIMPLY--IS THAT WE HAVE PLENTY OF WORK TO DO. AND I WANT TO MAKE IT CLEAR THAT WE CANNOT DO IT WITH LESS THAN $24.5 MILLION.

IN FACT, THE $24.5 MILLION THAT WE ARE REQUESTING IN SALARIES AND EXPENSES WILL FINANCE 452 POSITIONS. NOT ONLY IS THIS A SIZABLE DROP FROM FY 1981--$4.1 MILLION AND 215 POSITIONS, IT ALSO REPRESENTS A CUT OF 378 JOBS--46 PERCENT OF OUR EMPLOYEES--SINCE PASSAGE OF THE ADA. WHILE THIS REDUCTION MAY SEEM COMMENSURATE WITH THE BOARD'S DECLINING RESPONSIBILITY, IT MUST BE REMEMBERED THAT THE ADA REQUIRED THE BOARD TO CREATE A SIZABLE NEW PROGRAM--THE ESSENTIAL AIR SERVICE PROGRAM AND TO TAKE ON EXPANDED RESPONSIBILITIES IN OUR INTERNATIONAL PROGRAM.

WE'VE NOW REACHED THE FLOOR OF WHAT IT TAKES TO CARRY OUT THE RESPONSIBILITIES CHARGED TO THE CAB BY THE CONGRESS.

DOLLAR AMOUNTS BELOW THOSE CONTAINED IN THIS REQUEST WILL RESULT IN HARMING PROGRAMS THAT WILL CONTINUE PAST THE BOARD'S SUNSET DATE. THE CAB WILL NOT BE ABLE TO MAINTAIN THE HIGH LEVEL OF PROFESSIONAL WORK THAT THE INDUSTRY, CONSUMERS AND CONGRESS HAVE COME TO EXPECT FROM US.

FINALLY, I KNOW THERE'S TALK OF EARLY SUNSET. IN FACT, I THOUGHT I WAS ONLY GOING TO BE IN WASHINGTON TILL THIS OCTOBER.

WE HAVE DONE OUR EARLY SUNSET PLANNING, AND IF IT HAPPENS, WE'RE READY FOR IT.

BUT THE LONGER I'M IN THIS JOB, THE MORE I REALIZE THAT WE JUST MIGHT BE AROUND A WHILE, AND IF THAT'S SO, WE WANT TO DO IT RIGHT.

THIS CONCLUDES MY STATEMENT. I'LL BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Biographical Sketch

DAN McKINNON SWORN IN AS CAB CHAIRMAN AT WHITE HOUSE CEREMONY

WASHINGTON, D.C. (October 27)--Dan McKinnon was sworn in today as Chairman of the Civil Aeronautics Board at a White House ceremony. Supreme Court Justice Sandra D. O'Connor administered the oath of office to the 47-year-old Californian.

He succeeds Marvin S. Cohen, who resigned September 15 after serving as Chairman for three years.

Chairman McKinnon will oversee the final phases of the transition program toward almost total economic deregulation of the airline industry, a transition that will end in the abolition of the CAB, perhaps as early as 1983.

Born in San Bernadino, California, McKinnon owns two San Diego radio stations and is part owner of two television stations in Texas. He owns House of Hits Music Publishing Firm in San Diego. From 1969 to 1973, McKinnon was publisher of the La Jolla Light Journal Newspaper.

Chairman McKinnon is a graduate of the University of Missouri (1956), where he was awarded a bachelor's degree in History, Political Science and Economics.

Before entering college, McKinnon was a page in the House of Representatives for three years and part of that time served as the personal page of Speaker of the House Sam Rayburn.

After graduation, he served as a lieutenant in the U.S. Navy. An aviator, he still holds the Navy helicopter pilot peacetime record of 62 air/sea rescues.

Chairman McKinnon has been active in San Diego civic activities for many years. He is a director of Youth for Christ, a member of the San Diego Rotary

Club and Navy League, and on the Board of Trustees of the Boy's Clubs of San Diego. He was a director of the Chamber of Commerce.

His broadcast activities include Treasurer, Vice President and then President of the Country Music Association in Nashville. He was a two-term director of the National Association of Broadcasters.

He was honored in 1967 and 1973 as Radio Station Manager of the Year by Gavin and Billboard Magazines. Among other awards, he received Youth for Christ's International President's Award for Community Service in 1975, the Mexican-American Foundation Man of Distinction Award in 1976, and the President's Award from the Country Music Association in 1980.

He is the author of "The Good Life" and co-author of "Radio Programming in Action", published by Hasting House.

He also operates a small cattle ranch in Ramona, California.

Chairman McKinnon is an avid outdoorsman and licensed pilot. He has three children, aged 17 to 20, and will reside in Washington, D.C.

FOREIGN BILATERAL AGREEMENTS

Senator ANDREWS. Mr. Chairman, over the past few years, the Board has been pursuing a policy of negotiating liberal bilateral agreements with foreign countries, and this policy has come under fire for a number of reasons, including the idea that the United States should not be trading so-called hard rights, that is, actual access to groups of U.S. cities, for soft rights.

You have been espousing a position that any exchange which is negotiated must be fair and balanced, and U.S. routes should not be given away simply for promises of equal benefits in the future.

Would you elaborate on the Board's current position in this area?

Mr. MCKINNON. Yes, sir. As you are aware, I made a speech to the International Aviation Club outlining my position. The negotiations that have just broken down with the Japanese are a prime example of a stance that the U.S. delegation, composed of DOT, State, and the CAB has taken. I personally participated in those negotiations.

The Japanese offer was one of limiting our rights in exchange for giving them certain benefits, including landing rights in Chicago and Seattle. In return they were going to freeze our fifth freedom rights leaving Japan. That was most unsatisfactory, and we told them that. As a result, the talks have broken down.

Our attitude is that we are going to look out for the best interests of the United States, and if an arrangement does not serve those best interests, we are not interested in making any kind of deal just for the sake of making a deal.

Senator ANDREWS. In other words, we are not going to trade horses for rabbits.

Mr. McKINNON. No, sir, just horses for horses.

COMPETITION IN INTERNATIONAL MARKETS

Senator ANDREWS. Mr. Chairman, the Board has been encouraging increased competition in the international aviation marketplace. In theory this should result in better service and lower fares to the consumer. However, it has been said by some that the ultimate result will be a market that is dominated by foreign air carriers as more U.S. carriers compete for a declining share of the market and eventually drop out. In the meantime, foreign air carriers will not drop out because they are subsidized by their governments.

I have a feeling that our international air carriers can compete with air carriers anywhere in the world, but they have a tough time competing against other governments, and that is what they have been forced to do.

What is your position regarding increased competition in the international arena, and what steps can you take to assure that the competition is even?

Mr. McKINNON. I think we have a responsibility to look out for the best interest of the U.S. carriers. I personally recognize that there is a difference between domestic deregulation and international deregulation, or domestic competition and international competition. Internationally, we do have a problem.

Foreign governments use their airlines for more than just hauling passengers. They use it to carry their flag, for defense purposes, for employment, and for a variety of nationalistic reasons. It is very important to them that their carriers survive, and the foreign governments are going to do everything they can to have that happen.

I think we have to recognize that fact in negotiating bilaterals and in allocating rights to foreign carriers that enter this country. We need to work on problems such as various discrimination issues. We have some problems with the Italians right now, and we need to work to rectify those in order to serve the interest of this country.

Senator ANDREWS. Do we gain anything by trying to put an extra U.S. carrier on a given transoceanic route, which means three U.S. airlines might be competing against each other for the U.S. share of that market? Do we give the subsidized carrier of a foreign country "beyond rights" and a whole host of other things that make them even more competitive?

Is that helping the American traveling public?

Mr. McKINNON. One of the reasons the Japanese negotiations broke down was because all they were willing to give us was some very moderate pricing flexibility, some access we already felt we had under the bilaterals.

They were willing to give us what we felt we were entitled to anyway. A perfect example of our attitude today is that those talks broke down because we were not getting what we felt we needed to make a balanced deal.

LOSSES OF U.S. CARRIERS IN NORTH ATLANTIC

Senator ANDREWS. I understand that U.S. carriers have been hit with enormous losses in the North Atlantic. In fact, the U.S. share in the North Atlantic market dropped from 48 percent in 1971 to 42 percent in 1980. Can you elaborate on the reasons for this decline in the U.S. share of the market and how our procompetitive policy has affected this decline?

Mr. MCKINNON. Sir, it is an interesting question. I am sort of trying to stay away from the past and working on the future. I just want to try to enhance it in the future, rather than defend what has happened in the past.

Senator ANDREWS. There is a saying engraved on one of the buildings in the city, "The Past Is Prolog."

Mr. MCKINNON. That is true.

Senator ANDREWS. We have to learn the lessons from the past, so that we know where we are going in the future.

You mentioned that foreign carriers are used by their governments to carry the flag and as instruments of social policy, as well as to simply fly people, and that they are subsidized to do business. What sort of advantages do U.S. carriers have to offset this?

Mr. MCKINNON. The best advantage the U.S. carrier has is to operate efficiently and provide a good service.

Senator ANDREWS. How much subsidy can efficiency overcome?

Mr. MCKINNON. It cannot overcome it all, that is obvious.

Senator ANDREWS. So, if we don't recognize the fact that the foreign flag airlines are subsidized, we are going to find all of the transoceanic passenger service is carried by foreign flag airlines.

Mr. MCKINNON. I don't think I would go so far as to say all of it, sir.

Senator ANDREWS. Again, you have to look at the figures. We have seen a drop off in the share of the North Atlantic market in the last decade. So the trendline is there.

The followon question, Mr. Chairman, is what are you doing to reverse that trendline?

Mr. MCKINNON. What I am attempting to do, as we open up new bilateral negotiations, and as we find discrimination that keeps our airlines from having an equal opportunity to compete in the marketplace, is to try to rectify those problems. Also, I am trying to use the power that we have to pressure the foreign airlines operating in this country to force equal opportunities for our airlines operating in their countries.

Senator ANDREWS. But are you concerned about that trendline?

Mr. MCKINNON. Obviously, yes, sir, but it is going to take time to solve some of these problems.

Senator ANDREWS. Can you provide for the record some specifics of what you are doing to attack the trendline, and what kind of an estimate you have as to when we begin to gain that back?

Mr. MCKINNON. It is a tough question. As you know, when I came to the CAB, I came with the idea that I was going to shut it down by this October, and now it looks like the Congress has decided to keep it around until at least January 1, 1985. So I only have 2½ years at the most, unless you all decide to shut us down as I thought you were.

REVERSING DECLINE OF U.S. MARKET SHARE

Senator ANDREWS. I am not just talking about what the CAB does, because if the CAB is no longer around, some other agency of our Government will be involved in negotiations with other governments.

We are looking to you for some ideas about how this can be turned around, and how rapidly it can be turned around. It would be most helpful if you could include material at this point in the record detailing how we are going to accomplish this.

Mr. MCKINNON. We will do that.

[The information follows:]

There has been a steady decline in U.S. carriers' market share of transatlantic passenger traffic since 1971—from 48 to 41 percent in 1981. We believe that this is not related to procompetitive policies. This decline began long before the United States entered procompetitive air transport agreements with foreign countries, starting in 1978.

Economic conditions have shifted the source of transatlantic traffic from 67 percent U.S. citizens in 1971 to less than 47 percent in 1981. Before the past year, the dollar was seriously undervalued in Europe, which made the United States a cheaper place to visit and provided an opportunity for many Europeans to travel to the United States. Conversely, the weak dollar reduced the incentive for Americans to travel abroad. Since 1979 the number of U.S. citizens traveling on the Atlantic routes has been decreasing. Given the shift to foreign origin travelers, U.S. carriers have done quite well in maintaining their market position, especially since historically foreigners have shown a strong preference for their national airlines.

Procompetitive policies assisted the carriers in keeping their market share by removing much of the discrimination in market access in foreign countries, a continuing major concern of the United States.

Subsidy of foreign airlines is a problem that is difficult to combat. It is not always clear that a carrier is receiving a subsidy. Much of the problem is one of definition and all countries provide at least some indirect subsidy to their carriers.

It should be noted that subsidy, direct or indirect, does not always translate to efficiency or a strong competitive posture. Some of the most subsidized foreign carriers are also the least efficient. Further, some governments, while providing advantages for their carriers also make demands, such as free transportation and service in certain markets, that limit their ability to make optimum use of their market opportunities.

Reversing the decline in U.S. market share is, to a great extent, dependent on a strengthened dollar and U.S. economy. Another important factor is U.S. carrier management. If U.S. carriers retain their historic edge in efficiency, the U.S. dollar continues to strengthen, and the U.S. economy improves, the trend should be reversed. The CAB plans to pursue vigorously an aviation policy that increases U.S. carrier opportunities in international markets, including better U.S. carrier access to foreign-origin traffic, and that removes anticompetitive devices in international markets.

JAPANESE NEGOTIATIONS

Senator ANDREWS. You mentioned a moment ago that you were in California negotiating our bilateral agreement with the Japanese, and you said that the negotiations broke down. When do those negotiations pick up again?

Mr. MCKINNON. They broke down during the make-or-break session. We spent 2 weeks with the Japanese; they understood that, and we understood that. It was the eighth session that we have had. In the 1½ years, there have been approximately 60 days spent negotiating with the Japanese, and most of those have been 12-hour days, Senator.

We spent a long period of time negotiating, and when it came down to the final crunch point, the Japanese position was so unacceptable—they knew it was at the time—we just don't see anywhere to go with them at the present time. No future date has been set. Our delegation is going to meet later this week to try to figure out a unified strategy of where we go and what we do from here.

Senator ANDREWS. Do you intend to proceed with sanctions against the Japanese?

Mr. McKINNON. As you are aware, our CAB sanctions are before the President right now. We asked him to hold them until that last session was over. The Board, which is a total of five votes and not just my one, will have to make a determination on whether we ask him to lift our hold on them and go ahead and enforce the sanctions.

We have asked the President to wait, and we have to get back to him with a recommendation.

Senator ANDREWS. But so far you don't have an indication of when you are going to move on the sanction issue, or when these talks might begin again?

Mr. McKINNON. My best guess would be, we will move one way or the other on the sanctions within 2 or 3 weeks. There is no future date suggested for further negotiations.

Senator ANDREWS. Not even a wild guess?

Mr. McKINNON. No, sir, not for negotiations. We took what was called Honolulu One, which is the big package, off the table when the negotiations broke down. We left the understanding with the Japanese that if they wanted to get back to us on the minipackage that was left there within a reasonable period of time, we would be receptive to it; otherwise, that will also come off the table.

SETTING FARES IN NORTH ATLANTIC

Senator ANDREWS. It is my understanding that the European Civil Aviation Conference is currently negotiating with the United States regarding setting air fares in the North Atlantic area. Could you explain to the subcommittee what these negotiations are supposed to accomplish, and how they will help U.S. air carriers?

Mr. McKINNON. An organization known as ECAC, which is basically composed of 22 member states in Europe, came to the U.S. Aviation Interest Delegation last November. They offered a proposal that would allow pricing flexibility within zones, depending on the type of class you fly, whether it is first class, economy, tourist, or special fares. They allow certain flexibility for what their airlines could charge in those zones.

In return, the United States was asked to withhold its so-called IATA show cause order, which would eliminate antitrust immunity for U.S. air carriers jointly setting rates. In other words, it would have barred IATA members from getting together as a cartel to fix rates.

In the United States, we have a variety of carriers. We have those that charge high rates for first-class fares, and those that charge low rates for economy, barebones operations that fly to Europe with the minimum of amenities. The agreement with ECAC would allow our carriers to compete within these fare zones on flights to Europe.

The Europeans offered this idea to us. We went over there and sort of surprised them, I think, by accepting it. A working group was put together which met in January to work out the details of an agreement. It turned out that the details were a little more complex than everybody thought. We had another session with the Europeans in February, during which the full delegation worked out much of the remaining details.

Now it appears that on April 26, the representatives of ECAC will be coming to the United States, and the final details will be worked out. We are optimistic that an agreement will be reached. Both the Europeans and those of us in the U.S. delegation feel that this would be a worthwhile agreement for both countries.

Senator ANDREWS. How do these negotiations fit in with the existence of the International Air Transport Association and the recent agreements that the member carriers have reached through that forum to raise Atlantic fares an average of 7 percent?

Mr. MCKINNON. The antitrust immunity for U.S. carriers has been in effect all during the negotiations with ECAC, so the International Air Transport Association, the IATA, already set their fares for this season. Some of the antitrust situation is academic this year because the fares for the heavy summer season are basically on line and the CAB has approved them.

PANAM-BRANIFF AGREEMENT IN LATIN AMERICA

Senator ANDREWS. Recently PanAm and Braniff worked out an agreement in the free marketplace whereby PanAm would take over Braniff's routes in Latin America, an arrangement beneficial, I understand, to both air carriers which assures that the 100,000 passengers with advanced bookings on Braniff will not lose out if Braniff is unable to meet its obligations.

This seems to be just the sort of free marketplace interplay that the Board has been encouraging through deregulation. What is the Board's position on this action, and when will a decision be made? Again, the committee understands, and I think the general public understands, that the postponement of a decision is, in effect, a decision.

Mr. MCKINNON. We are considering that action right now, and it makes it tough for me to give you my position on the situation. We are expediting the proceedings on it.

Senator ANDREWS. The point is, the Board does not have a position as yet on that action.

Mr. MCKINNON. No, sir, it has not taken one yet because through our proceedings, we have to ask for comments. We set deadline dates on the comments, and as soon as we get the comments back, you can be sure that we will answer as quickly as possible.

I read in the trade publications that the Board has this position and that position. I don't know how those journalists figured all that out because I personally don't even have a position on it yet, because I have not read all the facts. I don't think you make a decision until you have read all the facts.

CAB ACTION ON PANAM-BRANIFF AGREEMENT

Senator ANDREWS. I am not trying to force you into a premature declaration of a position that obviously has not been taken yet. But I do think that the Board has the responsibility not to hinder what could be an open-market type of agreement by delay, because if you delay too long we have no service down there.

Mr. MCKINNON. I agree.

Senator ANDREWS. We have two important U.S. airlines that could be jeopardized by a late decision.

Mr. MCKINNON. Senator, I agree with you that we have a responsibility to make a decision and make it promptly, and any delay becomes a decision. I can assure you that we will make one as quickly as possible.

Senator ANDREWS. My concern is one of timeliness. I am not going to suggest what decision you should make.

I hope that we have given you enough funding, and you have enough staff, so that there is no shortage of the wherewithal to make a rapid decision.

Mr. MCKINNON. I think we are going to get all the information in by April 13, and we should make a decision within 1 week or 10 days following that, I believe.

Senator ANDREWS. How long do you suppose the White House will take after you send your decision over there?

Mr. KIRSTEIN. It is not clear that it goes to the White House for review. It depends on the ultimate nature of the arrangement.

Senator ANDREWS. Because it is an international route case, does it have to go to the White House?

Mr. KIRSTEIN. No; under 801 of the act, it goes over there if there is a transfer or some change on the certificate. If, in fact, the Board approves an agreement where PanAm essentially just leases the right to operate over specific routes, there is no effect on Braniff's certificate; therefore, it wouldn't go to the White House for review.

Senator ANDREWS. So if you OK the agreement that has been entered into by the airlines, it would not have to run through the White House?

Mr. KIRSTEIN. I will not say that categorically, because I understand the executive branch believes that it does. But looking at it at this point in time, it probably does not have to go under 801.

Senator ANDREWS. Of course, that would affect the time limits. But am I correct in stating that there is nothing that your Board needs from the standpoint of finances, funding, or whatever else, to allow it to move swiftly in a case like this where time limits are so important?

Mr. MCKINNON. No, sir, not in this year's budget. But in next year's budget, we are going to need the money to be able to keep up our performance.

Senator ANDREWS. Let's see how you perform under this year's budget, so that we will know what type of need you might have for funding next year. If you have adequate funding and you still can't make the decision in a timely fashion, more funding is not going to do you much good next year.

Mr. McKINNON. Yes, sir, I am sure that we will make a timely decision.

U.S. AIRCRAFT MANUFACTURING INDUSTRY

Senator ANDREWS. The United States has national security interest in maintaining a strong aircraft manufacturing industry. In your opinion, how have international financing arrangements, particularly through the Export-Import Bank, impacted on the U.S. segment of the aviation industry?

Mr. McKINNON. When I first came to Washington, I learned about the Export-Import Bank. There are some complaints by some of our air carriers about the Export-Import Bank financing foreign countries' purchase of aircraft.

It provides them with what they feel is perhaps unfair competition, because the Export-Import Bank may be financing foreign-owned aircraft at 12-percent interest, and the American companies are paying 16 to 18 percent, or prime plus 1 point or one-half point for the same plane.

On the other side of the coin, the United States is responsible for the majority of airline sales. Boeing and McDonnell-Douglas could not afford to build those aircraft and just have the U.S. market to sell to, so they need those foreign sales. The Export-Import Bank allows them to be able to develop enough aircraft to sell abroad, too, so the Americans can buy U.S.-made aircraft.

What concerns me most at the present time is the low fares that the U.S. airlines are charging, in America particularly, that keeps them from making the kind of profit they need.

They are not setting their fares on cost, so they are not making the kind of profit they need to make, and down the road they are not going to be able to buy the kind of airplanes they need to buy. It is going to affect the ability to stay in business of companies like McDonnell-Douglas and Boeing.

You have Air Bus subsidized by the French Government and others, which could potentially be the only producer of aircraft in the world. Looking at the broad perspective of things, this is one of the most serious problems the aerospace industry in the United States is facing today.

Senator ANDREWS. That would also increase our military cost figures.

Mr. McKINNON. It could have an effect on that; yes, sir.

JOINT REPORT ON AIRLINE MERGERS

Senator ANDREWS. The conference report on the transportation appropriations included a provision for the Department of Transportation to submit a joint report on airline mergers no later than January 15, 1982. You have already informed us that this report will be delayed.

What is the current status of the report? Are there any preliminary findings you could share with the subcommittee at this time?

Mr. KIRSTEIN. That report is currently being coordinated with the Department, and it should be out very, very soon, I would say in a matter of several weeks.

Basically, the report found that if you looked at the mergers that have occurred, there were really only two that could be analyzed in any detail. They were the PanAm-National merger, and the Republic-Hughes Air West-Southern mergers.

There were a couple of other proceedings at the Board. There was the TI-Continental acquisition and the Continental-Western merger. The latter did not result in any coordinated activity, and the TI-Continental acquisition has been so recent that we really don't have any information.

I think what the report shows is that it is very difficult to generalize because each carrier consolidation had its own unique set of facts, such as the operations of the airlines, the way they went about implementing the labor-protective provisions, and various other aspects. You could not really draw any generalizations.

It is clear that PanAm had a substantial amount of difficulty integrating the National system, and there was an overall dropoff in the quality of service, and a lot of problems that affected their ability to get traffic. Also, the rise in interest rates just at about the time that they were putting the consolidated carrier together really affected them and Republic.

I think, if you look at the recent data for Republic, for example, they seem to be bringing their system together now the way they had anticipated. Their revenue passenger-miles and their seat-miles are way up both in January and February of this year.

In fact, they made an operating profit in the last quarter which shows that they are coming along quite well. They still have a problem in that their debt is so high, but I think the report suggests that they will improve.

BOARD'S CURRENT POLICY ON MERGERS

Senator ANDREWS. What is the Board's current policy on mergers?

Mr. MCKINNON. Our current policy is that it is up to the airlines. If they want to merge, then they come to the Board and seek the approval. I think what is happening in the industry is that you are not really getting into mergers, Senator.

Senator ANDREWS. Everybody is on hold because of the economic problems faced in this country right now.

Mr. MCKINNON. I think that we will be seeing acquisitions in the future, because the labor provisions in most of these mergers make it uneconomical for most airlines to merge anymore. There are just too many problems for them.

EFFECTS OF DEREGULATION ON FARES

Senator ANDREWS. The first years of deregulation saw some significant shifts in the aviation industry, including service and fare changes. We have seen situations in which air carriers are running each other out of business with cutrate fares to selected areas. The cost of flying short distances between small- and medium-size cities has risen dramatically, so that it now costs more than flying coast to coast. It now costs you approximately $190, to fly roundtrip between Fargo, N. Dak., and Minneapolis, Minn., and for that price you can fly coast to coast.

Under these circumstances, would you term deregulation a success, and a boon to the traveling public?

Mr. McKINNON. I don't want to defend that, but let me try to provide some facts in response to it. First of all, deregulation was to be set up on the basis of competition.

There is an overcapacity of wide-body aircraft right now and that is the reason airlines are flying coast to coast with a lot of low fares. It's to make some kind of productive use of those empty aircraft.

I think the main problem, however, is the economic times. When deregulation was passed in 1978, the economy was good. In 1979, fuel prices increased, and they increased again in 1980. The economy started going downhill in 1980, it continued downhill in 1981, and it still hasn't recovered. So those factors have created some problems.

By way of comparison, from 1976 to 1981, the CPI and the inflation index went up about 59.8 percent or roughly 60 percent. Revenues for the airlines went up about 60.7 percent, still about 60 percent. So the revenues and inflation are going up at about the same rate, but the operating costs of the airlines went up to 79.6 percent.

So fares have not gone up as fast as the costs have gone up. This has put a squeeze on the airlines and they are not making a profit.

FARE INCREASE DISTRIBUTION

Senator ANDREWS. When you study fares, you lump them all together, but you have a certain percentage of people in this country whose fares have decreased. You have another certain percentage who happen to live in areas where the fares have increased tremendously.

How do you say that the system is working if you happen to live in Fargo, N. Dak., or Sioux Falls, S. Dak., and you are trying to get on an airplane to go to New York, or the west coast, or Washington, and your fare has gone up significantly.

What is equitable about a new system that gives windfall cuts in transportation to people who live in one part of the country, and sharply higher fares to people who happen to live in other parts of the country?

Mr. McKINNON. Senator, I realize you have grave concern for the people in the State of North Dakota.

When the Congress passed deregulation legislation, the airlines went to a different system of figuring fares. They went from the idea of figuring fares on miles to figuring fares on actual costs. So while in the past you had a situation where the people flying the long hauls were subsidizing the people who were flying to Minneapolis from Fargo, they now have a system where the few people flying from Fargo, N. Dak., to Minneapolis are paying the costs of that service.

Senator ANDREWS. But the point still remains. I am speaking about a 727 that is fully loaded coming out of North Dakota going to Minneapolis. That plane generally has a greater passenger load in the high-cost segment than it does in the low-cost segment.

It then will go on to Washington, and it doesn't have near the load factor and the charge per mile is probably one-fourth what the charge per mile is when you are flying that 727 full. That flies in the face of anything that makes sense from an economic standpoint, and that is the thing that I can't understand.

If you were getting less than sensible load factors, fine. But I get on that plane out in Bismark or in Fargo, and it is full. I get to Minneapolis, and part of the crowd has left.

Mr. McKINNON. There is one thing to think about and that is, when you went to deregulation, you developed competition. If there is a cheaper, more economical way to do it, any other person that can acquire an airplane is free to come in and provide that service and pick up that revenue at a cheaper cost.

There is nothing to prohibit individuals from flying that same route with another airplane, and developing their own business if they think that somebody is getting rich off that one segment.

COMPETITION UNDER DEREGULATION

Senator ANDREWS. Given today's interest rates, and the inability to get the needed capital, there is not much chance that somebody is going to come in and start running an airline.

The air travel business worked pretty equitably. If you were in an area, and you were flying out of a given town, Helena, Mont., or Bismark, N. Dak., or Rochester, Minn., you had a rather reasonable air fare per mile. You were not discriminated against.

Now, with these new fares, it seems that the smaller towns, which represent about half of the people in this country, are really being discriminated against, while the people who happen to live in an area where somebody wants to run a low fare, are getting by like gangbusters.

Mr. McKINNON. You talked about interest rates and Mr. Ferris, the head man at United, told me that they were putting 55 airplanes on the ground. I would imagine that if they could put an airplane from Fargo, N. Dak., to Minneapolis, and make it pay for itself, they would do it, instead of having the airplane sitting on the ground.

EFFECTS OF DEREGULATION ON TRAVELING PUBLIC

Senator ANDREWS. They don't have the infrastructure to run these planes into the smaller towns; you know that and I know it.

I would be interested in any figures that you might have that would demonstrate that deregulation is a success and a boon to the flying public. I understand that deregulation is a painful process. People say that even though it is going to ultimately work and that the economic problems facing the airline industry would have been much more severe under a regulated regime than under current conditions, I have to take that theory with a grain of salt.

[The information follows:]

The CAB staff has conducted several analyses of the effects of airline deregulation on the traveling public. We are submitting two documents that report the staff's findings. The first, "Developments in the Deregulated Airline Industry," provides a broad overview and assessment of the industry under deregulation. The second, "Myths

About Airline Deregulation," specifically addresses some misconceptions about how deregulation has affected the industry.

These documents reach the following conclusions:

1. Deregulation has helped keep air fares down. Air fares have risen much less rapidly than airline costs since deep discounts were introduced in 1977.

2. Deregulation tended to eliminate any cross-subsidies imposed by the CAB system of fares, and has brought air fares in line with costs. (Transcontinental markets are an exception, because the glut of aircraft capacity in those markets have driven down fares.)

3. Deregulation has tended to increase competition. The average market has more airlines competing today than in 1978.

4. Deregulation has contributed to improved airline productivity.

5. Deregulation has led to a better integrated air service network. Today, a greater share of trips can be made without connections, and a greater share of trips can be made on a single airline.

6. Air service to small communities has improved in the sense that these communities, on average, have more direct flights to major cities and fewer multistop milk run flights.

Myths About Airline Deregulation

Many highly visible changes have occurred in the airline industry since it was deregulated in 1978. These changes have directly affected the traveling public as well as the airlines. Several different views on the pros and cons of deregulation have emerged, because of the differing perspectives of the many different groups deregulation has affected, combined with the fact that the industry continues to change rapidly in its transition to a freely competitive environment. While the marketplace of ideas is and should remain open, there are several common theories and suppositions about what deregulation has done or has not done that simply cannot withstand careful scrutiny. In the interest of advancing public discussion, we attempt here to set the record straight on some of the common misconceptions about airline deregulation.

Myth #1: Deregulation has not yielded the expected benefit of lower air fares.

A few industry observers have asserted recently that deregulation has not lowered air fares as expected, and has in fact caused air fares to rise. Those who have reached such conclusions appear to have done so either on the basis of the hypothetical potential for fare increases created by the Board's widening of the "zone of reasonableness" for fares, or on the basis of fares in a very limited -- and biased -- sample of markets. A careful exmaination of the trends in airline costs and fares shows that deregulation has helped mitigate increases in air fares.

It is erroneous to conclude, as some have, that increases in air fares have matched the changes in the CAB's regulated fare ceiling. The Board greatly expanded the "zone of reasonableness" for air fares in May 1980 in part to encourage the airlines to stop basing fares on CAB standard fares. There has been considerable diversity in pricing across markets since then. Coach fares now are often set below the CAB ceiling, and an increasing share of travelers get discounts, which are available in most markets. Thus the average fare actually paid has not risen nearly as fast as Board regulation would allow. Moreover, given the diversity in pricing policies, it can be highly misleading to judge what has happened to fares generally based on the experience in any one market or in a few markets.

It must also be noted that the Board's liberalization of discount fare policies began in early 1977, well before the passage of the Deregulation Act. The introduction of deep discount fares in 1977 had an immediate and dramatic effect on average air fares. A careful analysis of the air fares actually paid over the period of liberal fare policies is necessary to determine how deregulation has affected air fares. The facts on inflation and the changes in major airline air fares and costs between 1976 -- the year before fare liberalization began -- and 1981 are presented in Table 1.

Consumer prices in the second quarter of 1981 averaged about 55 percent higher than in the fourth quarter of 1976. Over the same period, the CAB's Office of Economic Analysis index of trunk airline's prices for non-capital inputs such as fuel and labor increased slightly more than 100 percent. Despite the sharp increases in the price of fuel and other inputs, the trunks' actual operating expense per ATM rose 80 percent between 1976 and 1981. [1] Thus, airline input prices and costs rose far faster than the overall rate of inflation. Over this period average airline revenue per revenue ton mile rose

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[1] Operating expense per available ton mile measures the average cost of the services made available to the public. Cost per ATM reflects changes in the prices of airline inputs, the technological efficiency of aircraft, and the productivity of the airlines in terms of the efficiency with which they use their aircraft, workers, and fuel. However, it does not reflect changes in load factor. Consequently, the cost per revenue ton mile rose less than the cost per ATM over this period, reflecting the fact that load factors were higher in 1981 than in 1976.

56 percent. Air fares on average have risen at about the same rate as the CPI, but slower than airline costs. Moreover, air fares rose by less than operating expenses in every year except 1980.

Undoubtedly, the belief that air fares are rising too fast began in 1980, when average airline revenue surged by 23.9 percent. However, this view overlooks the fact that the rising fares in 1980 in part were necessary to offset "regulatory lag" which kept the increase in air fares well below the increase in costs per ATM in 1979 (18.7 percent vs. 24.8 percent). Over the combined two year period, 1979 and 1980, operating expense per ATM and revenue per RTM both rose about 47 percent. Hence even with the surge in fares in 1980, yields rose about the same as costs over the two year period. Moreover, the moderation of the rise in costs (6.2 percent) and fares (2.4 percent) for the first half of 1981 strongly suggest that the jumps in average costs and average fares in 1979 and 1980 were one-time-only occurrences related to the big increases in fuel prices.

In summary, the statistics clearly refute any claims that air fares have risen faster than can be justified by increases in airline costs. Indeed, because competition has prevented the major airlines from fully passing on their increases in costs in the form of higher fares, because increased load factors have held down costs per passengers, and because of the recent, well-publicized economy moves on the part of major carriers, deregulation has helped and will continue to help moderate increases in airline costs and air fares.

Table 1: Percentage Changes in
Inflation, Airline Costs, and Revenue Since 1976

	Inflation		Costs	Revenues
Year and Quarter	Consumer Price Index	Trunk Airline Price Index	Percent Change In Operating Expense per ATM	Percent Change In Fare and Cargo Revenue Per RTM
1976-Q4	5.0%	8.9%	4.3%	10.2%
1977-Q4	6.6%	13.56%	9.0%	4.9%
1978-Q4	8.9%	7.3%	5.2%	-1.1%
1979-Q4	12.7%	26.6%	24.8%	18.7%
1980-Q4	12.6%	18.9%	18.1%	23.9%
1981-Q2 1/	5.0%	9.5%	6.2%	2.4%
Percent Change 2nd Quarter 81 vs 4th Quarter 76	55%	101%	80%	56%

Myth #2: Deregulation has caused travelers from small communities to "cross-subsidize" travelers from big cities.

CAB regulation imposed a system of fares that were based almost exclusively on the distance of a trip. Distance is only one of many factors, including the number of passengers and the quality of service demanded, that determines the cost of serving a market. Markets of a similar distance can have very different costs, and should have different fares.

1/ 1981 figures give actual percentage changes between the fourth quarter of 1980 and the second quarter of 1981.

Given the flexibility to set fares, afforded by the CAB's zone of reasonableness, the airlines have indeed raised or lowered fares in many markets. Relative to the CAB imposed fares, the fare per mile in relatively lightly traveled, short-haul markets has tended to go up. The fare per mile in relatively heavily traveled, long-haul markets has tended to go up less, or to fall. Markets serving small towns, which are typically thin, short-haul markets, thus tend to have the highest fares per mile. It is sometimes claimed that this reflects discrimination against the residents of small communities in favor of residents of big communities.

The belief that high fares in small markets generate big profits, which the airlines use to cross-subsidize competitive markets, is erroneous for two reasons: (1) competition and potential competition severely limit the potential for setting highly profitable fares in most airline markets, and (2) careful empirical study shows that airfares tend to parallel the costs of serving markets. Thus the profits essential to support cross subsidy are not being realized in small markets.

Consider first the potential for cross-subsidization. The belief that airlines can make up for their losses in competitive markets by charging higher fares in small city markets is based on three assumptions: (a) that a substantial share of carriers' passengers travel in noncompetitive markets; (b) that small city travelers will pay whatever fare the airline charges (i.e. their demands are highly inelastic), and (c) that carriers need not be concerned about additional competition in these markets in the future.

The basis for each of these assumptions is in fact quite tenuous:

(1) The extent of competition: Perhaps the single biggest misapprehension of critics of airline deregulation is their failure to understand just how extensive competition is in this industry. In 1981, fully 78 percent of all passengers traveling on certificated airlines traveled on routes where more than one airline competes. Given the relatively small fraction of passengers carried in monopoly markets, there simply is not a great potential to substantially cross-subsidize the 78 percent which fly in competitive markets.

(2) The elasticity of demand in small markets: Even in markets where one airline serves, travelers are not without alternatives. Indeed, since most of the noncompetitive markets are short hauls, ground transportation and the private auto provide stiff competition. Airlines simply cannot charge any fare they please.

(3) Potential competition: No carrier has a lock on any market. The airlines have entered and exited hundreds of markets in realigning their route networks since deregulation. This high degree of entry and exit shows that entry is relatively easy; so no airline can charge monopoly fares in a market without risking entry and erosion of its position in the market. The threat of added competition is an important factor working to keep fares in line.

In short, the potential for cross-subsidization simply is not as high as is often alleged.

Moreover, all the available evidence argues against the presence of cross-subsidy, and suggests that average fares in a market do, in fact, closely parallel costs. For example a CAB staff study of about 200 markets found that when several cost-determining factors were accounted for, the competitive structure of airline markets had a minimal effect on average fares paid. To be sure, the industry is still in transition, and fare wars in certain vacation markets have lead to fares that have not fully covered costs. But these fares reflect the temporary excess of capacity that is suited to those markets, not cross-subsidy. No careful study has shown that monopoly markets have substantially higher fares than are justified by the costs of service. All the available evidence clearly suggests that differences in costs, not cross-subsidies, account for the pattern of fares observed today.

Myth #3: The differential between coach fares and discount fares reflects a cross-subsidy of "vacation" travelers by "business" travelers.

No one can say for sure whether the airlines have been forcing business travelers to subsidize leisure travelers, because that is a very complex question. While CAB fare regulation explicitly attempted to create cross-subsidies for one class of traveler by another, there is no systematic evidence that airlines cross-subsidize any class of traveler today. Moreover, if cross-subsidy exists it is to a far smaller degree than is commonly alleged based on simple coach vs. discount fare comparisons, because in truth business travelers and leisure travelers usually do not receive the same service.

On average, the cost of serving business travelers is substantially greater than the cost of serving leisure travelers, so a fare differential is justifiable. Board staff has compared "vacation" markets, Hawaii, Las Vegas, and Florida, with a sample of other markets. In vacation markets the airlines operate fewer flights with bigger planes, and fly with higher load factors. So a large share of leisure travelers, which fly in such markets, get less convenient, lower cost service -- and pay a lower fare.

There are also cost differences in markets serving both "vacation" travelers and "business" travelers. Airlines set aside seats on popular flights for full-fare passengers. Full-fare passengers are assured improved access to these flights, while discount travelers have a limited ability to obtain seats on popular flights. Thus, coach-discount fares are an indirect form of peak-offpeak pricing. Many markets are primarily supported by business travelers. They demand convenient, frequent service, which is expensive to provide if the market is not heavily traveled. In many cases, the high coach fares charged in these markets are necessary to provide the high levels of service demanded.

So in effect full-fare passengers get favored access to popular flights, have a better chance of getting on a flight on short notice, and have relatively more frequent flights available. In the main, full-fare passengers therefore are getting a higher quality of service. In short, it is a mistake to assume that the costs of serving one class of passengers is the same as another, just as it is a mistake to assume that the costs of serving all markets of an equal distance are the same. The available evidence suggests that fares reflect the costs of service.

Finally, we believe that competition and market forces will effectively eliminate any discrimination in pricing that may exist. The coach fare - discount fare pricing scheme exists today because this was the pricing scheme adopted and enforced by the CAB under regulation. At first, established carriers naturally adhered to this proven pricing strategy. However, we have recently seen rapid changes in pricing strategy as several of the major airline have moved to the single-fare policy introduced by some of the smaller new airlines. For example, low unrestricted coach fares are offered in the highly competitive transcontinental markets and Florida vacation markets. In addition, Pan Am and Braniff have adopted low unrestricted coach fares throughout their domestic route systems. Competitors have generally matched these fares. In any markets where the coach - discount pricing policy is discriminatory, we believe that competition and market forces will force the replacement of this pricing policy with a nondiscriminatory pricing policy.

Myth #4: Deregulation has caused the disintegration of the system of interconnecting airline routes, which made this the finest transportation network in the world.

There has been a massive realignment of the system of air routes in the U.S. since the industry was deregulated in 1978. Many cities have gained service and many have lost as the airlines have sought to establish route networks that would prove to be competitively successful. Success under competition means providing service where travelers want to go, and market forces have tended to match service to traffic flows. Indeed, a careful examination of travel and connecting patterns in the airline industry shows that the service network has on average become better integrated in the sense that fewer trips required connections, and fewer connections require transferring among airlines.

A CAB staff analysis found that between 1978 and 1980 the fraction of travelers who had to connect en route declined three percentage points, and of the travelers who made connections the share that remained on the same airline increased by 35 percent in one sample of markets.

The reasons why the air transport system has become better integrated can be seen by examining how the major groups of airlines have changed their route networks.

(1) Trunk Airline Routes. Under CAB regulation, the trunk airlines were allowed to serve the major air service markets of the country. However, usually no more than two or three trunks were allowed to serve a given market. Carriers were not always able to expand their networks to include routes where their passengers wanted to go. Given the limitations a certain degree of specialization arose in the regions or kinds of markets served by each airline. By limiting the ability of trunks to adapt their networks to traffic demands, the Board retarded the integration of the airline network.

Indeed, the major focus of most of the trunk airlines today is to develop highly integrated route networks. They are developing "connecting banks" at major airports, which provide convenient and well-timed connections among the many combinations of communities served by their route networks. Examples of this are American Airlines in Dallas, Piedmont in Charlotte, and Continental and Frontier in Denver. In addition, the trunks have expanded beyond their traditional service areas to extend the reach of their service networks.

(2) Local Airline Routes. Under CAB regulation, local-service airlines were restricted to serving small subsidized markets, as well as a few dense markets within their traditional service regions. Travelers from smaller towns within the region were thus forced to transfer to trunk airlines to travel beyond the region. Since deregulation, the locals have expanded into many long-haul markets, thus allowing more travelers to make their entire trip on the same airline, and perhaps on the same plane. One example of this is USAir's expansion into markets serving Arizona, Texas, Louisiana, and Florida from its regional hub in Pittsburgh.

(3) Commuter Airlines. Many of the feeder markets which had been served by local service airlines are now served by commuter airlines. As explained more fully below, the commuters provide more flights than the local-service airlines they replace, and provide more service direct to large and medium hubs.

Thus, from a system-wide perspective the air service network is growing more integrated with deregulation, and this includes the typical small community as well as the big cities.

Myth #5: Deregulation has allowed big cities to gain air service at the expense of small cities.

It is sometimes alleged that because airlines are eager to serve heavily traveled, long haul markets, big cities have gained air service since deregulation while the big losers have been the small communities. This belief is based on the unarguable fact that big city airports account for an increasing share of departures (See Table 2), coupled with the erroneous assumption that more air service to these communities means worse air service to smaller communities. But the air service network shouldn't be viewed as a fixed pie that is simply being re-sliced as aircraft are shifted from one market to another. As already noted above, the air service network is becoming better integrated as the airlines tailor their route networks to better match travel demands.

Table 2: Percentage Changes in Departures by Airport Category (June 1981 vs. June 1978)

24 Large Hubs	37 Medium Hubs	70 Small Hubs	480 Non Hubs
11.0%	6.2 %	-.4%	-2.0%

These changes are increasing the number of airlines operating in major markets, but at the same time they are permitting a more efficient and convenient flow of traffic into major markets because the airlines are tailoring service to better match traffic flows. Improvements in the air service network have directly benefited small-community travelers in at least two ways:

(1) The improved integration of the air service network means that more passengers can fly direct to their destinations now than before deregulation, For example, many of USAir's passengers can now stay on the airline all the way to Florida, Texas, or Arizona. Thus, small-community travelers whose trips require connections often have better service to their ultimate destinations.

(2) The slight reduction in departures to small communities that has occurred since deregulation actually reflects an improvement in the average level of service they receive, contrary to the conclusion one might reach from a superficial analysis. Between June 1978 and June 1981 total departures at 480 non-hub airports fell two percent (table 2). But over the same period, flights from these small communities to large and medium hub airports increased 2.7 percent and .6 percent respectively (table 3). Thus, the reduction in departures came predominately in flights to small hubs and other non hubs, which mainly reflects a shift toward more direct flights and away from "milk-runs" that stopped at many small communities en route to a major airport. Overall, small communities have more direct access to major centers of commerce and major connecting airports.

In addition, it is sometimes asserted that local service route abandonments leave small markets with less service, or no service. A 1981 Board staff study shows that, in fact, the small communities where trunk and local-service airlines have pulled out have experienced an increase in flights (two percent between 1978 and 1980).

Table 3: Percentage Changes in Departures by Market Category (June 1981 vs. June 1978)

	Destination Airport			
Origin Airport	Large Hub	Medium Hub	Small Hub	Non Hub
Large Hub	.5	5.4	- 1.5	2.7
Medium Hub		6.2	- 1.9	.6
Small Hub			-12.4	-12.5
Non Hub				-18.2

To be sure, many small communities have lost service--as many have gained. There is a tendency to focus attention on the losers, which creates an impression that there is a trend toward reduced service at smaller communities. However, on balance this is not true; in several important respects this class of city is receiving better service than before deregulation.

Developments in the Deregulated Airline Industry

Commercial airline service has been closely regulated since its infancy. In the early 1970s, following over three decades of Civil Aeronautics Board (CAB) regulation, industry observers inside and outside of government increasingly questioned whether airline regulation was in the public interest. They concluded that Board restrictions on pricing and entry were producing higher cost air service than was necessary and that more freedom for competition would be desirable. Consequently, the CAB and Congress took steps to liberalize and to eliminate gradually economic regulation of domestic passenger air transportation.

The first significant step toward liberalization of CAB regulation was the Board's approval, in the spring of 1977, of restricted deep discount fares in two transcontinental markets. Similar discount fares quickly spread to other markets. The Board also began to adopt measures to streamline its cumbersome and costly route award procedures. The early returns from these actions were unambiguously positive -- average fares declined, traffic increased, and carrier profits soared. Amid these favorable developments, Congress enacted the Airline Deregulation Act in October 1978. The Act brings about a phased elimination of the statutory authority for economic regulation of the airline industry.

A little more than a year after the Act was passed, the industry was buffetted by a recession and a doubling of jet fuel prices. As a result of these developments, air fares increased sharply, air traffic declined, and air carrier profits turned to losses. To the casual observer, it appears that the benefits of deregulation, though significant, were short lived. This paper offers a more detailed analysis and concludes that deregulation has brought about fundamental changes in the industry, which will continue to bring better and lower cost air travel to the vast majority of air travelers.

An examination of deregulation cannot ignore over forty years of government intervention in the market for air transportation. The first section of the paper therefore offers a brief review of the growth and development of the air transport industry under CAB regulation. Though the move to introduce competition in the airline industry has been a gradual process, which is still not fully complete, several developments signal how the competitive industry will perform. The second section reviews several notable developments--specifically the use of discount fares, the emergence of air fares related to the cost of service, the realignment of carrier route systems, and the growth of the "low cost" airlines. The third section offers an assessment of the overall effect of deregulation on airline productivity and air service. In the concluding section we compare the effects of competition with the predictions of industry observers in the debate prior to passage of the Airline Deregulation Act.

I

THE REGULATION AND DEREGULATION OF THE AIRLINE INDUSTRY

Throughout the 1950's and most of the 1960's the airline industry experienced rapid growth and technological change. During this period the industry was relatively prosperous. However, in the late 1960's and early 1970's, industry growth slowed and profits declined. This turn of events created pressures for substantial fare increases, which ultimately forced the Board to undertake, for the first time in its history, a thorough and systematic investigation of domestic air fares (The Domestic Passenger Fare Investigation). Following the DPFI, the realization grew that CAB regulation of routes and fares had created serious distortions in industry service levels and costs. A substantial body of evidence suggesting that the industry would perform better under competition than under any modified form of regulation led ultimately to passage of the Airline Deregulation Act. 1/ The growth and development of the industry, and some of the changes in regulation subsequent to the DPFI investigation are reviewed in this section.

Airline Technology and Growth

From 1950 to 1970, trunk and local service domestic air traffic (measured by revenue passenger miles) increased twelve-fold, an average annual growth rate of 13.7%. This growth was largely due to the increased demand for air travel and the reduced costs of providing it. As incomes grew, the demand for faster, higher quality transportation grew as well. Rapid technological advances increased the speed and convenience of air travel, and induced a large

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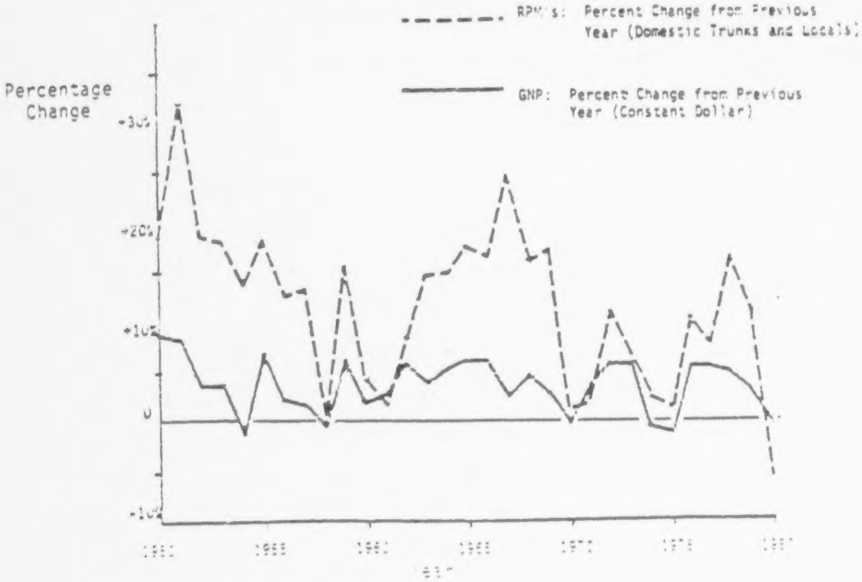
1/ Several thorough studies, completed prior to passage of the Airline Deregulation Act, present a history of the industry and analyze the effects of regulation. For example, see Paul W. MacAvoy and John W. Snow, Regulation of Passenger Fares and Competition Among the Airlines, (Washington: American Enterprise Institute, 1977); U.S. Congress, Senate Committee on the Judiciary, Hearings before the Subcommittee on Administrative Practice and Procedures, "Oversight of Civil Aeronautics Board Practices and Procedures," 1975; CAB, Report of the Special Staff on Regulatory Reform (Washington, D.C.: Civil Aeronautics Board, 1975); George Douglas and James Miller, Economic Regulation of Domestic Air Transport (Washington: Brookings Institution, 1974); George Eads, "Competition in the Domestic Trunk Airline Industry: Too Much or Too Little" in Almarin Phillips (ed.) Competition and Regulation (Washington: Brookings Institution, 1974); William A. Jordan, Airline Regulation in America: Effects and Imperfections (Baltimore: Johns Hopkins Press, 1970); Richard E. Caves, Air Transport and its Regulators: An Industry Study (Harvard University Press, 1962).

shift of business travelers to travel by air. In addition, rising incomes, and declining real air fares led to increased use of air transportation by discretionary travelers, such as tourists.

The growth of air travel substantially exceeded the growth of the economy during most of the period. Figure 1 shows the rates of growth of air traffic as measured by revenue passenger miles, (RPM) as well as the growth rates of the economy (Gross National Product). The two most rapid periods of traffic growth were during the early 1950s and the mid 1960s. The former period followed the introduction of long-haul propeller aircraft, while the latter period followed the introduction of jet aircraft. These innovations lead to a substantial increase in the convenience of air travel; they also led to a significant reduction in its cost.

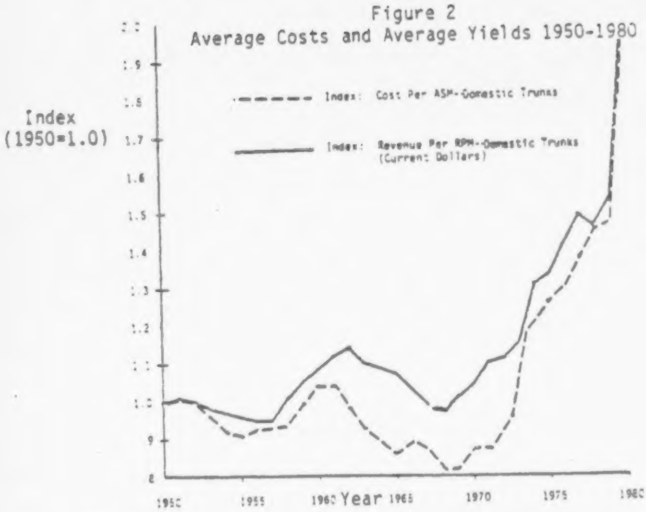
Figure 1
Airline Traffic Growth and Economic Growth 1950-1980



The changes in cost per available seat mile (ASM) are illustrated in Figure 2. The effects of the new technologies are clearly evident. (These cost figures are not adjusted for inflation; the real reduction in costs was even greater.) These cost reductions reflect the technological efficiency of the newer aircraft and increased average length of trips. 1/ Yields (average revenue per passenger mile) also declined as new aircraft were introduced;

1/ Increases in stage length reduce the average cost per available seat mile. Average stage lengths have increased throughout the period. In 1968 the average trunk stage length of 749 miles was 18.5 percent greater than the average stage length in 1960.

Figure 2
Average Costs and Average Yields 1950-1980



both the fare and cost reductions were most pronounced with the introduction of the jets in the 1960s. These yield reductions were largely due to discount fares allowed under the Board's permissive attitude toward discounts during this period.

The rapid growth of the airline industry eased as the 1970s began. The economy's rate of growth slowed, and the major aircraft types introduced in the 1970s did not reduce costs as dramatically as did the large props in the 1950s and the jets in the 1960s. Moreover, these wide-bodied jets were designed for dense long-haul markets, and, unlike the earlier innovations, could not be profitably employed in a wide range of markets.

As the growth in air travel slowed, airline profits fell and the carriers filed for large fare increases. The Board suspended these increases but indicated that it would approve filings for smaller increases that also incorporated a wholly new fare structure. The Board's actions stimulated a number of complaints and legal challenges. As a result, the Board launched the Domestic Passenger Fare Investigation (DPFI) in 1970. The Investigation considered both the proper method for determining the overall level of air fares, as well as the proper method for setting rates for particular markets and classes of travelers.

CAB Regulation

Fares in the industry had been under the control of the CAB since its inception. Generally, the air carriers set rates based on a market's distance. 1/ Through much of its history, the Board approved most of the across-the-board fare increases filed by carriers. Significant deviations from established rates, however, generally required hearings, and innovative pricing was thereby discouraged. However, the Board tended to be relatively liberal in approving discount fares when the industry was growing and profitable. The discounts permitted were frequently status-oriented discounts such as family fares, youth fares, senior citizen fares, and military fares. 2/ Discounts with minimum stay requirements were sometimes permitted, but such discounts were rarely more than 20 percent.

The failure of the Board to allow price competition during the long Post War period of technological improvement provided strong incentives for carriers to compete on the basis of service quality. This often encouraged the carriers to offer more expensive service than was demanded by most travelers. In profitable markets, airlines competed by offering additional flights, thereby providing more convenient service. This led to a decrease in load factors (the percentage of seats that were filled). Since a large proportion of an airline's costs are associated with flying an aircraft, and do not depend on the number of passengers on board, declining load factors led to increased average costs. 3/ Figure 3 shows that load factors fell continually through the late 1960's and early 1970's. Therefore, costs per passenger fell much less rapidly than the cost of operating the aircraft during most of the 60's. Non-price competition also increased other costly passenger amenities, such as better food service and more spacious seats. Though all of these benefits are clearly of some value to passengers, there is now evidence that many consumers would prefer to give up these luxuries in return for lower fares. 1/

The DPFI was a careful and systematic examination by the Board of its fare policies, and, in general, the Board adopted policies intended to bring fares more closely into line with costs and thus encouraged greater economic efficiency. The Board determined that fares should be related to the cost of service, where the cost of service was based on market distance assuming a load

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1/ Prior to 1952, fares were directly proportional to distance, costs however increased less than proportionally with distance. The introduction of a mileage taper allowed average fare per passenger to decline with distance and thus more closely relate to costs.

2/ Douglas and Miller, pg. 41-2.

3/ As more flights are added in a market, the fraction of seats filled (load factor) declines, thus the average cost per passenger rises. Douglas and Miller, and others, have argued that under regulation airlines would add flights in a competitive market until average costs rose to equal the average revenue, which was set by CAB regulation.

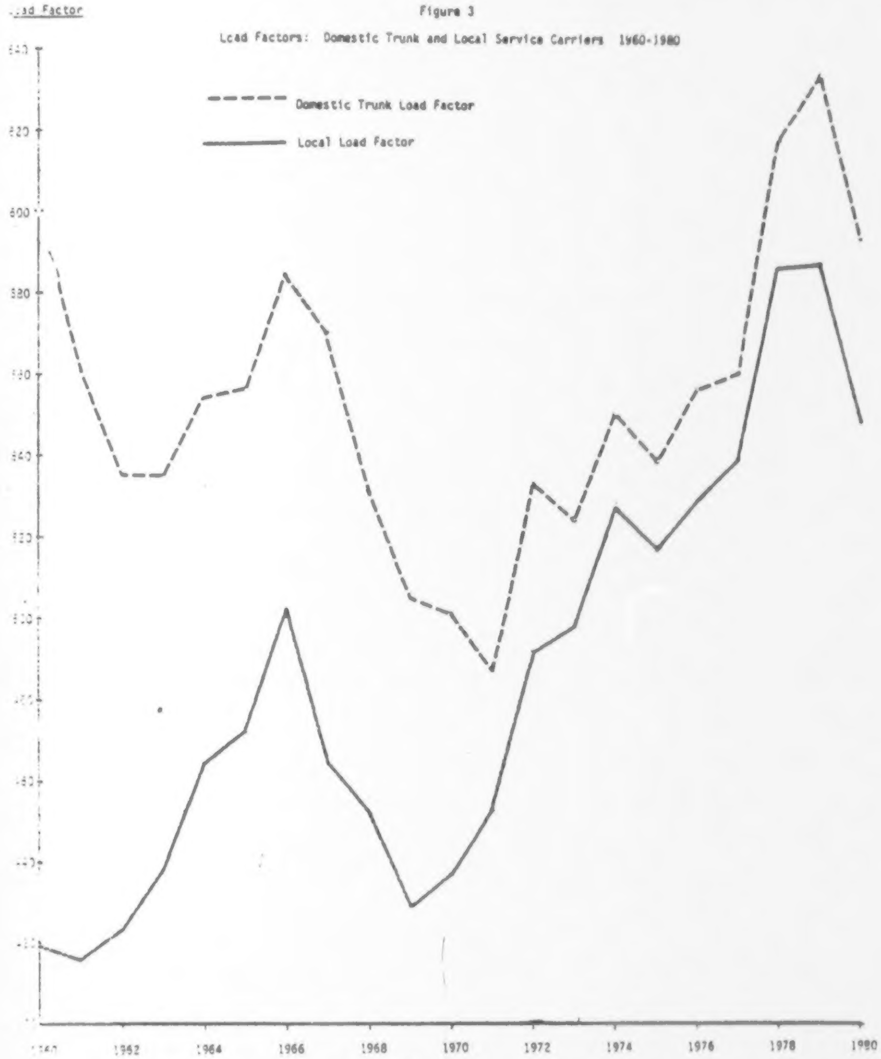
1/ See the discussion of low cost carriers, p. 34.

factor of 55 percent and a return to invested capital of 12 percent. Fares, however, were set below costs in markets of less than 400 miles and greater than costs in markets of more than 400 miles. The Board also held that there was no difference in the cost of serving full fare and discount passengers, and put strict limits on carrier use of discount fares. 2/

After the DPFI three important distortions remained: first, in most markets the DPFI formula set coach fares that still were substantially different from the costs of service. Second, the Board's prohibition of all but short-term discounts deterred innovative pricing. Finally, the DPFI did not even consider carrier entry and its fundamental relation to competition and prices.

Figure 3

Load Factors: Domestic Trunk and Local Service Carriers 1960-1980



2/ It now appears there are significant cost differences in serving passengers that can qualify for discount fares and those that cannot. The Board however, limited the applicability of discount fares to 18 months and required that carriers demonstrate that a proposed discount would generate extra revenues.

Its control over entry permitted the CAB to shape the competitive structure of the airline industry by limiting the total number of airlines holding certificate route authority and by determining which airlines would be granted authority for any particular route. Its regulation of route authority like its regulation of fares impeded the development of an efficient airline system. The Board, however, never systematically evaluated its regulation of entry.

The economics of the airline industry do not make entry into the industry or into a new market difficult or excessively risky. The CAB, however, was often an insurmountable barrier to entry. Only the original grandfathered trunk airlines ever attained trunk-line status. And it took an act of Congress to get the Board to issue permanent route certificates to the local-service airlines in 1955. From 1938 until the Deregulation Act was passed in 1978, not one major route was awarded to any passenger airline other than the trunk and local service carriers. 1/

Moreover, existing carriers often faced substantial regulatory hurdles in obtaining routes. The Board did not grant a carrier route authority to extend service in a city-pair market already receiving non-stop service without a lengthy proceeding in which the carrier was required to meet a "public convenience and necessity" test. Even in markets not receiving non-stop flights, a carrier could not commence service without going through an often costly route award proceeding.

Competitive fare proposals were not considered in route award proceedings. On the contrary, unprofitable high cost carriers, which would be least willing to offer low fares or provide the best service, were sometimes granted a route award for "route strengthening" reasons. Similarly, local service carriers were given routes for the purpose of generating profits to provide internal cross-subsidy for unprofitable short-haul markets and thereby reduce their need for direct subsidy.

Exit from markets also required Board approval, and carriers were required to provide "adequate" service at the cities listed on their certificates. However, this did not require them to serve in every city-pair route they received. (In fact, carriers sometimes sought a route for the sole purpose of denying it to a competitor.) The Board's authority to require adequate service under the Federal Aviation Act was very weak, because the Board could not

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1/ Prior to 1978, the only exceptions were the certificates awarded to "Regional" carriers such as Air New England and Air Midwest, which were awarded certificates so that they could provide subsidized small community service under the authority of Section 406 of the FAA Act. In the Senate Hearings (1975) it was revealed that, between 1950 and 1974, the CAB blocked entry by 79 applicants which desired to create newly certificated airlines.

regulate schedules. In practice, "adequate" service could be as little as one flight a week to any point listed on the carrier's certificate. 1/ Moreover, it apparently was not difficult for a carrier to suspend or delete a point: between 1960 and 1975, the certificated airlines dropped service to 173 points -- a 30 percent reduction in the number of communities serviced. 2/ The relatively weak "adequacy of service" provision of the Act meant that CAB cross-subsidy policies made a questionable contribution to service to the nation's small communities. As with its fare policies, the CAB's regulation of entry seemed to inhibit the development of an efficient airline industry.

The Board's Liberalization of Policy

Even as the *DPFI* was being concluded, serious questions about the wisdom of continued restrictions on fare competition and route authority were raised. Subsequent to the completion of the Investigation, the Board itself formed a special advisory task force to consider the merits of regulatory reform. Simultaneously, the Senate Judiciary Committee held hearings and published a report on the effects of regulation. Both the Board's internal study and the Senate Judiciary Committee, as well as a number of academic lawyers and economists, found that increased freedom for competition would be beneficial.

In 1976, two years after *DPFI* was concluded, the Board took a step toward a more flexible regulatory regime when it relaxed group affiliation requirements for charters. This abolished all restrictions on charter operators save a 30 day advance purchase requirement, and offered many travelers a reasonable competitive alternative to regularly scheduled service. Charter operators are able to achieve substantially higher load factors than scheduled carriers and thus operate at significantly lower average cost per passenger in a given market.

Recognizing the increased threat of competition from charters in two of its most lucrative routes, American Airlines applied for authority to offer fares that were fully competitive with charter fares for passengers that could meet advanced-purchase and minimum-stay requirements. The Board approved

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1/ However, two flights a day were often required when a carrier received subsidy for serving a point. But subsidized service could still be provided to any other point on the carrier's certificate, and could be scheduled at any time during the day. CAB, Oakland Service Case, Docket 36699, April 19, 1978, pp. 48-52.

2/ The Board could suspend a point without a hearing, and it could delete a point without a hearing, provided the deletion was not contested by the affected community. Generally, the Board promptly approved uncontested deletions, but contested deletions could be held up several years by the communities. See CAB, *Report of the Special Staff on Regulatory Reform* (Washington, D.C.: Civil Aeronautics Board, 1975), pp. 55-57.

For an account of changes in certificated service levels see U.S. Department of Transportation, "Air Service to Small Communities" in Paul MacAvoy and John Snow (ed.), *Regulation of Passenger Fares and Competition Among the Airlines* (Washington, D.C., American Enterprise Institute, 1977) pp. 81-106.

these "Super Saver" fares in the Spring of 1977 in New York-Los Angeles and New York-San Francisco markets. By March 1978, similar restricted discount fares were offered in virtually all trunk and local service carrier markets.

In addition to fares with advance-purchase and minimum-stay requirements, carriers experimented with other types of discount fares. For example, Texas International instituted "Peanuts" fares which offered discounts on off-peak flights. Other airlines, as well, offered limited numbers of seats at reduced fares with no advance-purchase or minimum-stay requirement.

This movement toward liberalized fare policies advanced another major step in September 1978 when the Board adopted a zone-of-reasonableness approach for all air fares. Carriers could set fares as much as 10 percent above and 50 percent below the DPFI formula fare without prior Board approval. [1]

The discount fares introduced in 1977 and 1978 had a substantial effect on the average cost of and demand for air travel. The size of the discounts (up to 50 percent) and their availability were generally much greater than the status discounts of the 1950's and 1960's. The advance purchase and minimum stay requirements helped to target those discounts at vacation travelers. These discretionary travelers constitute the most price sensitive segment of the traveling public, and they generally place relatively low value on frequent service. Between 1976 and 1978 the average cost of air travel (cents per passenger mile) increased by only 3.7 percent, while economy-wide consumer prices (CPI) increased 14.6 percent. Spurred by the decline in the real price of air travel, domestic trunk traffic increased by 24.9 percent between 1976 and 1978, an average annual rate of 11.8 percent -- more than twice the 5.4 percent annual rate of growth between 1970 and 1976.

In addition to liberalizing price regulations, the Board also began to liberalize entry policies. In 1975 the Board ended the moratorium on route awards that had been imposed in 1970 when airline profits declined sharply; and two years later it adopted fundamentally new policies with respect to entry. Beginning in the spring of 1977 the Board began a series of precedent setting cases in which it considered carrier fare proposals in making route awards. Within a year the Board undertook route proceedings with the intention of awarding several carriers a given route, on the belief that the market should determine which carrier (or carriers) serves. These proceedings thus considered route awards without full evidentiary hearings on carrier selection issues. These procedural changes represented substantial steps in relaxing the regulatory barriers to serving a market.

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[1] Upward fare flexibility was limited to five percent in markets if three of fewer carriers were authorized to serve.

The Deregulation Act and Its Aftermath

In October 1978 the Airline Deregulation Act was passed. The Act set a timetable for phasing out the statutory authority for regulation, and for the sunset of the CAB. In its major provisions that took immediate effect, the Act

1) Shifted the burden of proof in route authority cases from the need for a positive showing that entry meets public convenience and necessity to a showing by opponents that entry is inconsistent with public convenience and necessity;
2) Provided for a limited degree of automatic entry, which required no Board review or approval;
3) Allowed carriers to apply for and obtain dormant route authority (that is, authority that was not being used by the airline holding the certificate);
4) Set a statutory zone of reasonableness for fares; and
5) Provided for a new Essential Air Service Program intended to replace local service subsidies, and established notice procedures for airlines wishing to terminate service at a community.

To a great degree these provisions of the Act ratified steps the Board had already taken in liberalizing pricing and entry for existing certificated carriers. Nevertheless, the Act protected the Board's liberalized policies from court challenge, and guaranteed that a future CAB could not easily reverse the course of deregulation.

The liberalized route award criterion and the dormant route authority provision of the Act made rapid entry possible, and for the first time, opened the opportunity for airlines other than the trunks and local service carriers to obtain certificated route authority. More significantly, with the passage of the Airline Deregulation Act, the Board moved swiftly to adopt non-hearing proceedings and to make multiple permissive entry route awards as its standard procedure in processing entry applications. Since then entry has been virtually unrestricted.

Trunk and local carriers took advantage of liberal route authority to expand operations and enter new markets. They were joined in interstate scheduled service for the first time by the former intrastate carriers, like Pacific Southwest, Southwest, and Air Florida. Former charter carriers, like World and Capital, also began scheduled service. Some former commuter carriers have obtained certificated route authority through the dormant route authority provisions of the Act and have begun to offer jet service. And in November 1979 the Board certificated Midway Airlines, the first all-new airline to enter the certificated airline industry under the liberalized entry provisions of the Act. 1/

In 1978, when the Deregulation Act was passed, the airline industry had a banner year. As noted earlier, the rate of traffic growth was twice as high between 1976 and 1978 as it had been in the earlier 1970's. Record industry operating profits of $864 million were earned in 1978. By all measures, deregulation was an immediate and dramatic success. Through the first half of 1979, traffic remained strong and fares low, although industry profits were adversely affected by a 58-day strike at United Airlines, and more significantly by the 38-day grounding of the DC-10. By the end of 1979, however, traffic growth declined and profits turned to losses as airline input prices shot up and the economy entered a slump.

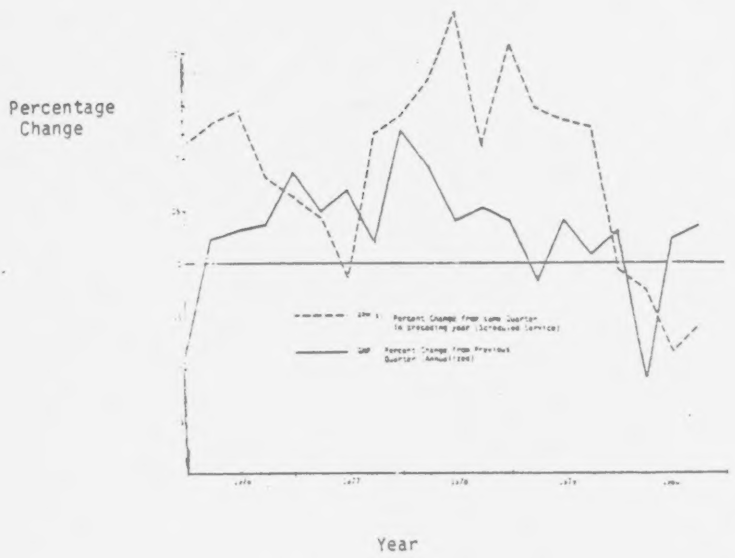
Beginning in the spring of 1979, the world price of oil rose dramatically. Within a year, the average price of jet fuel had more than doubled. Fuel expenditures rose from 20 percent of airline operating expenses of the trunk airlines in 1978 to 30 percent in 1980. The price of other inputs that airlines purchased increased as well, and the weighted average price of airline inputs increased by 31.8 percent between the second quarter of 1979 and the second quarter of 1980. 1/

The economy's rate of growth slowed at the end of 1979 and slipped into recession in the first half of 1980. This is illustrated in Figure 4 which also illustrates the corresponding decline in air travel growth beginning in the second quarter of 1979. Air travel showed an absolute decline in 1980, and load factors declined substantially. (See Figure 3 on page 11.)

1/ Other newly organized certificated airlines are New York Air, People Express, and Muse Airlines.

1/ This is based on trunk costs and is contained in the Appendix. For a discussion of the index see page 46.

Figure 4
Quarterly Changes in RPM's
Compared with Changes in GNP



Profits also fell. Table 1 shows that operating profits of the domestic trunk airlines and the local service airlines were substantially lower in the fourth quarter of 1979 than they had been in 1978. This relationship continued through the first quarter of 1980. In the second quarter of 1980, however, local service carrier profits began to recover. For the full year local service airlines had operating profits of about $161 million; the domestic trunks experienced operating losses of $232 million.

Table 1

Domestic Operating Profits of Trunk and
Local Service Airlines
($ Millions)
1978 to 1980

Period		Trunk Airline Profits	Local Service Airline Profits	Annual Total Domestic Trunk & Local
1976	Q1	-81.9	2.8	
	2	214.6	30.5	
	3	251.3	37.1	
	4	86.9	25.7	561.4
1977	Q1	9.7	2.4	
	2	158.9	30.7	
	3	234.4	42.3	
	4	114.2	53.9	646.5
1978	Q1	87.8	6.9	
	2	285.6	54.3	
	3	416.2	51.0	
	4	48.4	26.2	976.4
1979	Q1	-31.3	-2.0	
	2	149.2	83.0	
	3	-23.1	42.5	
	4	-166.6	5.1	56.7
1980	Q1	-207.5	-5.5	
	2	-117.3	37.1	
	3	56.8	60.8	
	4	36.0	68.6	-71.0

SOURCE: CAB, "Quarterly Financial Review", various issues.

II

INDUSTRY DEVELOPMENTS UNDER COMPETITION

Immediately following deregulation, the falling real cost of air travel, the high rate of growth in traffic, the expansion of air service, and high airline profits seemed to be sufficient evidence to conclude that deregulation was a success. As noted above, these statistics were far less favorable in the last quarter of 1979 and throughout 1980. The sudden deterioration in traffic and profits has raised the question of whether the success of deregulation was ephemeral. To address this issue, and to consider the long term effects of deregulation we examine some specific developments that have occured under the more competitive regime. In the following section we consider the effects of these developments on the industry's productivity and the quality of air service.

The pricing and entry freedom afforded by deregulation has permitted four significant developments that have fundamentally changed the industry. These developments are

- o Discount fares which (1) are targeted at discretionary travelers, and (2) are managed to shift such traffic to off peak hours of the day;
- o A closer match of the quality of service and air fares with market demands;
- o Substantial entry by trunk and local carriers into new routes, and rapid growth of commuter airlines to replace the major carriers in small communities; and
- o The growth of "low cost" airlines including the former intrastate airlines, and the new entrant airlines.

Each of these developments has contributed to making the airline industry more efficient, and better able to provide the amount and quality of service travelers demand.

Discount Fares

We noted earlier that the present discounts are generally larger and more widely available than the "status" discounts of the 1950's and 1960's. Discounts are currently available in most markets to any travelers that meet advance purchase and minimum stay requirements. These requirements tend to restrict the availability of discounts to price sensitive travelers. Moreover, many airlines carefully limit the availability of discount seats on many peak flights, and thereby shift low-fare travelers to off-peak flights. Thus, these discounts do not reduce the availability of peak hour service to full fare coach travelers, and by increasing load factors, they lower average costs.

To explain the basis for discount fares, it is helpful to assume that there are two types of air travelers -- time sensitive and discretionary. A time sensitive passenger is defined to be quite particular about the time he either departs from his origin or arrives at his destination. A salesman, for example, tends to have strong preferences as to when he arrives for a scheduled meeting. A time sensitive traveler is frequently willing to pay a premium for a more convenient flight. Discretionary travelers, on the other hand, are typically more flexible about when they depart. They would gladly shift their preferred departure time for a lower fare. (In fact, some discretionary travelers would be willing to shift their destinations for a low fare. For example, a low fare may induce a New Yorker to vacation in Palm Springs, California rather than the Catskills or Miami, Florida.)

It costs less to accommodate discretionary passengers rather than time sensitive passengers. For example, consider an airline serving only discretionary passengers. It could operate infrequent flights at very high load factors and still provide adequate air service. Moreover, such an airline could operate relatively large equipment. (The costs per seat of operating an aircraft generally declines with the size of the aircraft.) This combination of high load factors and large aircraft would enable an airline serving only discretionary travelers to set low fares. Passengers, however, would have a limited selection of flights, and they might have to make reservations substantially in advance of their proposed departure. During the regulatory era, charter operators specialized in serving discretionary travelers and were able to offer low priced air travel by offering such service.

Low fare, infrequent service on flights operated at high load factors would not be satisfactory for time sensitive passengers. They place a sufficiently high value on their time that they would willingly pay a premium for convenient service -- better timed flights and a higher probability of getting a seat on their preferred flight without having to make reservations well in advance. Airlines serving time sensitive passengers will therefore find it most profitable to offer relatively frequent service, and to assure seats are available on most flights up to a few days before the flight. Airlines will therefore tend to offer more flights using smaller aircraft and tend to operate at lower load factors than in serving discretionary travel.

The discount fares that have evolved under deregulation allow airlines to meet the demands of both time sensitive travelers and discretionary travelers. As noted above, time sensitive travelers demand convenient service, and the ability to get a reservation on a given flight on short notice. Airlines meet their demands by offering frequent service, and setting aside a sufficient number of seats on each flight to meet their expected demand. The remaining seats can be offered at a discount without substantially reducing the quality of service to the full fare passengers.

When the industry was closely regulated, carriers generally limited the availability of discount seats according to the status of a traveler. Frequently, discretionary passengers had to travel at full fare and they had no incentives to shift to off-peak flights. The airlines acquired sufficient aircraft capacity to meet peak load demands, and as a result average load factors tended to be low. The deep discount fares that have appeared with deregulation allow airlines to shift discretionary travellers to off-peak flights, and thereby to provide service that suits both time sensitive and discretionary travelers. Moreover, discount fares stimulate traffic, and thereby increase load factors and the size of aircraft that can efficiently serve a market. Thus, these discounts decrease the cost of providing service to full fare passengers as well as discount passengers.

At present over 60% of passengers are traveling on discount fares. 1/ In 1976 less than half this fraction of passengers traveled on discount fares, and most discounts were substantially smaller than offered now.

Since the approval of the original Super Saver fares, the availability and, in some markets, the types of discounts have changed. Initially, Super Saver fares had 30-day advance purchase and a seven day minimum-stay requirements. Currently, the advance purchase and minimum-stay requirements have been reduced and in some markets one or both have been eliminated. Also, the sizes of the discounts vary substantially, and in some markets, peak/off-peak fares have been introduced where there are no restrictions on the availability of lower fares on certain flights. 2/

Though carrier pricing policies are still developing, discount fares will most likely continue to prevail in a competitive airline industry. The type of discount available, however, will undoubtedly vary among markets. In markets where there is sufficient traffic to sustain frequent flights, a restricted discount fare may be offered. In more dense markets, peak/off peak fare differentials may evolve. The type of discount used in a market should depend on market characteristics such as distance, density, and the demands of passengers for convenient service.

Adjustment of Service Quality and Air Fares to Market Demands and Costs

Permitting airlines to tailor service quality and fares to meet market demands was an important goal of the supporters of deregulation. An analysis of airline costs and demands reveals that efficiency in the airline industry requires that average load factors and average aircraft size increase and average fares fall (1) as market distance increases, (2) as market density increases, and (3) as the proportion of discretionary travelers increases. 1/ Prior to deregulation, the DPFI fare formula set the fare in a market solely on the distance of the market. Moreover, the DPFI fare was deliberately set too

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1/ Some of these "discount" fares are in fact unrestricted low fares. These fares are available to all travelers, but they do vary across peak and off-peak hours of the day, and across peak and off-peak days of the week.

2/ Peak/off peak fares are generally offered in dense markets, where demand generated sufficient flights to satisfy time sensitive passengers' demands for frequent service.

1/ For example, see Douglas and Miller, Chapters 5 and 6.

high in markets above 400 miles and too low in short-haul markets. Nonprice competition led to load factors that were lower than demand warranted in markets where DPFI fares were too high: in long haul markets, dense markets, and discretionary markets. Similarly, load factors were higher than demand warranted in thin, short haul markets with little discretionary travel. The available evidence today shows that with increased fare flexibility the airlines provide quality-price combinations that better match market demands.

Although the Airline Deregulation Act established a zone of flexibility, it was not until May 1980 that the airlines had wide discretion in setting prices. At that time, the Board increased fare flexibility by substantially increasing the zone of reasonableness. 1/ Since then, the airlines have used the increased fare flexibility to rationalize their fare structures. The present relationship between fares and costs is illustrated in the following series of tables.

Table 2 presents the average fares of certificated airlines as a percentage of the DPFI fare. 2/ This shows how fares have changed relative to the taper imposed by the DPFI fare formula. Fares in small short-haul markets are above the DPFI fare formula. Coach fares are below the formula fares in the top 200 markets, and in those smaller markets above 1,000 miles. The relationship between average fares and market distance and density is quite consistent across all the categories of markets: the fare as a percent of DPFI declines as market distance increases for all three size categories of markets, and fare as a percent of DPFI falls as market density increases for all but one of the distance categories.

1/ Originally the Board lifted ceilings in markets less than 200 miles, and granted 50% and 30% upward fare flexibility in 201-400 miles and 401 + mile markets respectively. On September 14, 1980, this was amended to grant $15 plus 30% flexibility in all markets.

Local service carriers have been allowed to change fares up to 30 percent above the DPFI formula fare since 1974.

2/ The fares reported for each market are the average of all fares paid, excluding first class fares. In virtually all markets, discount fares well below standard coach fares are available, and are included in these averages. There are also a substantial number of markets in which low, unrestricted coach fares prevail. The DPFI fare formulated is adjusted periodically by the Board to reflect cost increases. Under regulation, average fares in a market would not necessarily be equal to the DPFI formula. Discount fares were offered in many markets; and local service carriers could charge 30% above DPFI in certain markets.

The number of markets in each size and distance category is given in Appendix A.

Table 2

Average Fares* as a Percent of DPFI Fare Formula in 1980

Market Distance	Market Size Category		
	Top 100 Markets	Second 100 Markets	Samples of Smaller Markets
0 - 200 mi.	92	94	123
201-500 mi	94	93	112
501-1000 mi.	92	91	99
1001-1500 mi.	80	87	93
1500 + mi.	74	81	91
Average of All Distances	87	90	112

* Weighted Average of all fares, excluding first class fares. Weights are based on the number of passengers. The DPFI fare is the average fare for 1980, weighted by service segment traffic of the months the fare was in effect.

As evidence that fares parallel costs, Table 3 gives two major cost elements -- the load factor and average aircraft size -- for certificated airlines by market size and distance. The table shows that, for each size category of market, average aircraft size tends to rise as market distance increases, while average load factors remain more or less constant for all but the shortest markets. For example, in the smaller short-haul markets, the average load factor is 44 percent, and the average size of aircraft is 99 seats, while in the small long-haul markets the load factor is 57 percent and the average aircraft size is 181 seats. There is also a tendency for average aircraft size and average load factor to be greater for denser markets of a given distance. For example, we have noted that in small long haul markets the average aircraft size is 181 seats; in long haul markets that are in the top 100 market, average aircraft size is 237 seats. This pattern of aircraft sizes and load factors is consistent with the efficient pattern described at the beginning of this section.

The average cost per passenger is lower in markets served with bigger aircraft at higher load factors, and as Table 2 shows, fares tend to be lower in these markets as well. For example, the average fare in the small long haul markets is 89 percent of the DPFI formula fare for those markets, while in the long haul markets in the top 100 markets, the average fare is only 74 percent of the DPFI fare. Thus, these comparisons suggest that service levels and prices vary across markets in a pattern that at least partially reflects costs and demands.

Table 3

Average Load Factors and Aircraft Size (seats) in 1980

Market Distance	Top 100 Markets		Second 100 Markets		Sample of Smaller Markets	
	lf	aircraft size	lf	aircraft size	lf	aircraft size
0 - 200 mi.	53	144	53	113	44	99
201-500 mi	61	124	60	122	54	105
501-1000 mi.	58	143	59	127	57	121
1001-1500 mi.	60	155	60	139	58	136
1500 + mi.	59	237	54	207	57	181
Average of All Distances	59	156	58	138	51	111

A comparison of fares and load factors, and aircraft size in several vacation markets with the market averages described above provides another illustration of how airlines are tailoring service to conform with market demands. Our earlier discussion implies that carriers should be able to offer lower fares by operating at higher load factors and using larger equipment in markets dominated by discretionary travelers. Table 4 summarizes this comparison. In order to control for the effects of market distance, the data in the table are restricted to markets of more than 1500 miles. 1/ (The results for this distance block are representative of other distance blocks as well.) Fares are substantially lower in the tourist markets for all three size categories. For example, the average fare in the smaller long haul markets is 89 percent of the DPFI formula fare, while the average fare is only 80 percent of the formula fare in the tourist markets of that category. Load factors range from four to eight percentage points higher than average for the vacation markets. Another important difference is in the size of aircraft used in tourist markets: In the top 100 markets, the aircraft used in tourist markets hold nearly 40 more seats than average. The difference is more than 80

1/ We found that average market distance is greater in vacation markets. Vacation markets would appear to have lower costs and lower fares relative to the average markets if the effect of stage length were not controlled in compiling Table 4.

seats for the second hundred markets, and about 20 seats for the sample of smaller markets. This observed relationship between the use of larger, more efficient aircraft in tourist markets and the lower fares offered in these markets shows the correlation between fares and costs that is emerging with increased carrier pricing discretion.

Table 4

Fares, Load Factors and Aircraft Size:
Long-Haul Tourist* Markets vs. All Long-Haul Markets in 1980

	Top 100 Markets	Second 100 Markets	Sample of Smaller Markets
Fares as Percent of DPFI:			
All Mkts.	74	81	89
Tourist Mkts.	65	70	80
Average Load Factor:			
All Mkts.	[illegible]	54	57
Tourist Mkts.	67	61	61
Average Aircraft Size:			
All Mkts.	237	207	181
Tourist Mkts.	274	292	200

* Tourist markets are defined as markets involving service to Florida, Las Vegas, and Hawaii. Long-haul markets including all markets of 1500 miles or more.

The parallel variations in fares and costs described here are qualitatively consistent with the pattern described at the beginning of this section. Of course, there are many other factors that also affect the relationship among costs and fares across markets. For example, statistical analyses have indicated that fares are higher in markets involving slot constrained airports than in comparable markets that are served at unrestricted airports. 1/ There is also some statistical evidence to suggest that the amount of connecting traffic fed into a market has a positive effect on local fares. 1/

1/ The Federal Aviation Administration has limited operations at four airports: Washington National, LaGuardia and Kennedy in New York, and O'Hare in Chicago.

1/ For an examination of factors that affect air fares see, "Antitrust Analyses in a Deregulated Airline Indusry", David Sibley et. al (forthcoming).

We also believe some short-term, supply-demand imbalances explain part of the variation in fares and costs across markets. For example, it appears that fares on long haul routes have fallen because of an excess supply of wide-bodied aircraft that has resulted from the decline in demand during the past recession. 2/ Though the excess capacity in some of these markets has caused fare declines, these fares have apparently covered the carriers out-of-pocket costs, though not the cost of the aircraft. The low fares in long haul markets are most likely a short-run phenomenon and are an indication of the existence of competition in the deregulated industry. This short-run imbalance also partly explains why local service carriers have been relatively profitable while trunks have suffered losses in the past year. The local service carriers tend to serve short haul markets with two-engine aircraft that are not in excess supply.

Air fares appear to be more closely related to costs than they were under regulation. To be sure, in some markets fares are substantially below fully allocated costs, while in others fares are above such costs. Nevertheless, in most markets we can expect fares to tend toward fully allocated costs. In markets where fares are low, carriers will tend to withdraw service thus allowing prices to rise. And as we discuss in the next part, carriers appear to enter markets where there are profit opportunities.

Realignment of Routes

The ability of carriers to enter and exit markets has led to significant changes in airlines' route structures. In 55 percent of the top 100, and 44 percent of the second hundred markets, one or more carriers entered between 1978 and 1980. In a random sample of 200 smaller markets, 18 percent had entry by operators of large jet aircraft. 1/ This indicates that the carriers have frequently entered new markets in realigning their route networks, and that it has not been prohibitively costly to enter markets.

2/ Recent trade publications indicate that several airlines are attempting sell wide-bodied aircraft. The average resale value of wide-bodied aircraft has fallen about 29 percent in the past year. See Journal of Commerce, June 9, 1981. Another indication of the surplus of wide-bodied aircraft is that Lockheed has announced it may suspend production of the L-1011 because of weak sales. See Wall Street Journal, May 13, 1981.

1/ This data is based on the Official Airline Guide data for November of both years. This entry led to a lessening of market concentration in many markets. In the majority of the top 200 markets there were decreases in market concentration as measured by the Herfindahl Index. In the smaller markets 22 percent had a decrease in concentration, while 27 percent had an increase. Concentration is based on a Herfindahl index of market departures. The Herfindahl index is equal to the sum of the squared market shares of the firms in the market. In the case of a monopoly, i.e., one firm, the Herfindahl index is equal to one; with two equal sized firms, .5; with three equal sized firms, .33.

In contrast, between November 1976 and November 1978, only 15 percent of the top 100 markets, 23 percent of the second 100 markets and 16 percent of the smaller markets had entry.

Carriers' decisions to enter and exit markets seem to be largely a function of the routes and equipment carried over from regulation. In the past, the local service carriers were restricted to provide relatively short-haul service and many of their passengers had to make a connection to a trunk carrier to get to their ultimate destination. With relaxed entry restrictions, these carriers have expanded into longer haul routes and provided single carrier service to an increasing percentage of their passengers. Trunks have similarly consolidated their route networks.

Because of the routes they were awarded under regulation, local service carriers tend to operate two-engine jet aircraft with about a hundred seats or less, while trunk carriers generally operate larger three-engine or wide-bodied aircraft. In markets less than 750 miles, and especially in less dense market, two-engine aircraft are more cost effective than the larger aircraft. Consequently, while both groups of carriers have been increasing the average distance of the markets they serve, local service carriers have tended to expanded their operations into markets above 500 miles while the trunk carriers increased their operations into markets above 1,000 miles.

These changes in route structures under deregulation have increased the proportion of travelers that make trips on a single airline. An analysis of travel data for the nations 60 largest airports shows that the proportion of trips requiring connections has declined by about 3 percent between 1978 and 1980. Moreover, table 5 shows that on average 35 percent more of the connecting travelers in the top 100 markets remain on a single airline in 1980 than in 1978. Similar increases are registered for the second 100 markets and the smaller markets. Travelers prefer single airline service because of the convenience of on-line connections, and most travelers perceive lower risk of missed connections and lost baggage when their trip is with one carrier. 1/

1/ The decline in on-line travel for the top 100 short-haul markets is probably because the trunk and local carriers have pulled out of some of these shorter-haul markets. Travelers in these markets therefore must make an inter-line connection if their trip continues beyond the short-haul segment. In the longest-haul markets, the decline in on-line connections is probably because many transcontinental travelers diverted from normal routings to make connections on the east and west coast in order to take advantage of the low transcontinental fares.

Table 5

Percent of Connecting Passengers
That Remain on Single Airline: Ratio of second six months
1980 to second six months 1978

Market Distance	Market Size Category		
	Top 100 Markets	Second 100 Markets	Sample of Smaller Markets
0 - 200 mi.	.90	1.20	1.47
201-500 mi	1.11	1.06	1.39
501-1000 mi.	1.53	1.36	1.20
1001-1500 mi.	2.04	1.56	1.48
1500 + mi.	.95	1.14	1.13
Average of All Distances	1.35	1.24	1.38

As trunk and local service airlines have moved out of short-haul markets, commuter airlines have expanded rapidly to serve these markets. For example, between November 1978 and year end 1980, trunk and local airlines dropped all service at 132 cities around the country. 1/ This continues the trend, noted earlier, of service deletions by trunk and local service carriers at the smaller communities, although at a more rapid pace. The increased opportunities in denser markets may have induced carriers to shift service out of smaller markets, but no doubt the sharply rising cost of fuel was also a major factor. The large jets operated by the trunks and local sevice carriers are much more fuel intensive than the smaller aircraft that has replaced them. As the certificated airlines have moved out, the commuters have moved in with the small aircraft suited for these markets. On average, the commuter airlines are supplying these communities more service with lower subsidy costs than was provided by the certificated airlines. In the 132 cities dropped by the trunk and local airlines, weekly flights are 2 percent higher in 1980 than in 1978. In contrast, the nonhub communities overall have experienced an 8 percent decline in departures.

Since deregulation, local service airlines have dropped service to 56 subsidy eligible communities. Only about one-half of these communities have

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1/ The Airline Deregulation Act guaranteed that all communities receiving certificated air service at the time the Act was passed would continue to receive service for at least 10 years. Thus, none of the communities dropped by the certificated airlines was in jeopardy of losing all service.

required subsidy under the Act's guarantee of essential air service. 1/ Moreover, because the commuter airlines use aircraft that are better suited for serving these small communities, subsidy costs are also lower for the points that continue to need subsidy. For example, the CAB has estimated that when essential air service subsidies have been paid to a commuter airline replacing a local service airline, the cost is only about 35 to 40 percent of the subsidy required by the local service airline.

One sign of the general acceptance of commuters by travelers and their success in serving small community markets is that commuter traffic grew 20 percent in 1978 and 27 percent in 1979. Thus, the realignments of route structures we are now observing and the rapid expansion of commuters to replace certificated airlines when they exit a market suggest that smaller communities will be adequately served by the commuter airlines with a minimal need for essential air service subsidies.

In addition to increasing stage length, the carriers have taken advantage of liberalized entry in other ways to improve the utilzation of their equipment. For example, several carriers had route systems that had strong summer peaks and consequently had substantial excess capacity in the winter. Some of these carriers have begun to offer night and weekend service to willing tourist attractions, e.g., Florida. This has improved aircraft utilization and offered consumers low-cost travel during slow traffic times.

The Growth of "Low-Cost" Airlines

The fastest growing segment of the industry under deregulation has been the "low cost" newly certificated airlines. Some of these carriers, such as Pacific Southwest Airlines, Air Florida, and Southwest Airlines, previously served only intrastate markets, and now have begun interstate service. World and Capital were formerly charter operators. Other carriers such as Midway Airlines and New York Air have been established since the passage of the Airline Deregulation Act.

Like the local service carriers, these carriers tend to use predominately two-engine jet aircraft. They also tend to specialize in relatively short-haul markets. However, the similarities stop there. First, the new entrants tend to have lower labor costs. Second, these airlines generally provide "no-frills" service and specialize in serving local traffic. 1/ These carriers generally

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1/ Subsidy is paid when certificated airlines pull all service out of a community, and no replacement service is provided voluntarily.

1/ Some of the new entrants, such as Air Florida, World, and Capital operate in long-haul markets where the majority of travelers tend to be discretionary travelers.

provide no food service, they do not arrange connections through their reservation systems, and they do not transfer baggage from one flight to another when a traveler makes a connection. (Indeed, People Express charges an added fee for checking luggage in the cargo compartment.) The combined result is that their costs are often substantially less than the major carriers' costs for markets of comparable distance.

An illustration of the differential in costs between a new entrant, a local service, and a trunk airline is provided in Table 6. This table shows the fully allocated costs of operating a B-737-200 aircraft over a 200 mile market segment. 1/ In every cost category, Southwest Airline's costs are substantially less than United's. Generally Piedmont's costs are between the costs of Southwest and United. In total, United's fully allocated costs are 89 percent higher than Southwest's, and Piedmont's costs are 51 percent higher than Southwest's. The differential in costs is even greater when figured on an available seat basis: Southwest averages 10 more seats per aircraft than Piedmont and 15 more seats per aircraft than United.

The single most important factor explaining these new entrants' cost advantage is their lower labor costs. The established carriers generally pay higher wage rates and have more restrictive work rules than the new entrants. Under Board regulation, labor was apparently able to capture some of the cost savings resulting from the technological advances in the industry in the form of higher wage rates and more restrictive work rules. The new entrants have been able to attract employees with lower wages and less restrictive work rules. Of course, the new entrants' work forces generally have little seniority; so part of the difference in wages will be eliminated as their work forces mature. Whether these carriers will continue to have significantly lower costs than major carriers will depend to a large degree on how their wage structures and work rules change; it will depend as well on how the labor costs of the established carriers are affected by the increased competition from these new entrants.

A second reason for the lower cost of the new entrants stems from differences in the nature of their operations. The new entrants have tended to specialize in "no frills" service in relatively short-haul markets where there are a substantial number of local passengers. By specializing in local

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1/ These costs are based on the CAB's costing model. All airline cost elements, except airport landing fees are included. While some of the cost elements are rather arbitrarily allocated, the relative costs probably reflect the differences in the cost structures of these airlines. The relative costs indicated here are representative of the values across a wide range of stage lengths.

Table 6:

Comparison of Airline Costs of Operating B-737-200 Over a 200 Mile Market 1/

Cost Category	Southwest	Piedmont	United
Direct Operating Expense Plus Aircraft Servicing Expense	$ 944	$ 1243	$ 1451
Inflight Passenger Expense Plus Passenger Servicing Expense	268	566	581
Reservations, Sales Advertising	144	285	408
Ground Property & Equipment Expense Plus Administrative	103	95	252
Fully Allocated Cost	$ 1459	$ 2189	$ 2692
Average Seats per Aircraft	118	108	103
Fully Allocated Cost per Seat	$12.36	$20.27	$26.14

1/ Source: CAB, "Domestic Fare Structure Costing Program, Version 6, update." Data are for 12 months ending September 30, 1980 for Southwest, and 12 months ending June 30, 1980 escalated to September 30, 1980 for United and Piedmont.

traffic, the carriers eliminate the more complex and expensive scheduling process as well the more complex ticketing, reservation, and baggage systems required for an extensive network of connecting flights. For example, carriers offering connecting service tend to arrange flights to minimize the inconvenience to their passengers. This often entails coordinating the arrival and departure times for a large number of flights. It also requires building in enough schedule flexibility so that if an incoming flight is delayed, an outgoing flight can also be delayed so that the number of passengers who miss their connections is minimized. Consequently, the new entrants have generally been able to achieve a higher equipment utilization rate. Southwest, for example, uses its aircraft an average of about 9.5 hours per day, while Piedmont and United which offer substantial connecting sevice, use their two-engine B-737-200's about 7.4 hours and 5.5 hours per day. 1/

Providing passengers with the best connecting service also requires flying nto large airports, which generally are more congested than smaller airports. he specialist carriers tend to serve less congested airports, and consequently, their aircraft spend less time on the ground. Again, this represents a cost savings for the specialized airlines.

III

PRODUCTIVITY AND SERVICE CHANGES UNDER DEREGULATION

Having reviewed several specific developments in the airline industry under competition, we turn now to a broader view of the effects of deregulation. These industry developments have produced a more efficient airline system by enabling carriers to become more productive and by allowing the most efficient carriers to grow. An assessment of the effects of deregulation on airline productivity and air fares is presented in the first part of this section. The second part presents an assessment of changes in service convenience under deregulation. It shows that since the passage of the Airline Deregulation Act the convenience of travel in many small markets has increased. The evidence reviewed in this section indicates that although the past year has been a very difficult one for the industry and air travelers, the added flexibility offered by deregulation has reduced the effects of the recession and increased fuel costs on the industry and the traveling public.

Productivity

The promise of deregulation was a more efficient airline system: free of Board regulation of fares and routes, the industry could employ resources more efficiently to meet consumer demands. In this section, we consider the productivity gains from deregulation. First, we examine differences in the growth rates of carrier classes: since deregulation, the growth rates of airlines with lower costs have increased relative to the growth rates of other

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1/ Based on CAB support run for fiscal year 1980 "Aircraft Cost and Performance Report" (Washington: Office of Economic Analysis, Civil Aeronautics Board) dated February 1981. Data for 12 months ending June 1980.

airlines. 1/ We then consider changes in the productivity of the trunk carriers, which continue to account for the lion's share of air travel.

Differences in the rates of growth among the various carriers between 1978 and 1980 have been quite large, and show that lower cost segments of the industry have been growing fastest. 2/ Between 1978 and 1980, trunk airline revenue passenger miles grew by 15 percent, while the local carrier RPM's grew by 33 percent. The RPM's of all other airlines grew nearly 42 percent. Indeed, although total domestic traffic declined between 1979 and 1980 by 8.8 billion RPM's, only the trunks actually experienced a negative growth rate. Trunk traffic declined by about 12.5 billion RPM's, while traffic increased nearly 4 billion RPM's in the remainder of the industry. (Of course the various trunk carriers fared very differently. For example, Delta with a route system similar to the local service carriers did relatively well.) Changes in the relative shares of these carrier group between 1973 and 1980 are illustrated in Figure 5.

The rapid growth of the local service carriers since the enactment of the Airline Deregulation Act is primarily due to their expansion into longer haul markets. As noted earlier, passengers prefer single carrier service. In many markets, however, local service carriers were prevented from offering such service by the Board. USAir and Frontier, for example, provided substantial short haul service into Pittsburgh and Denver, but many of their

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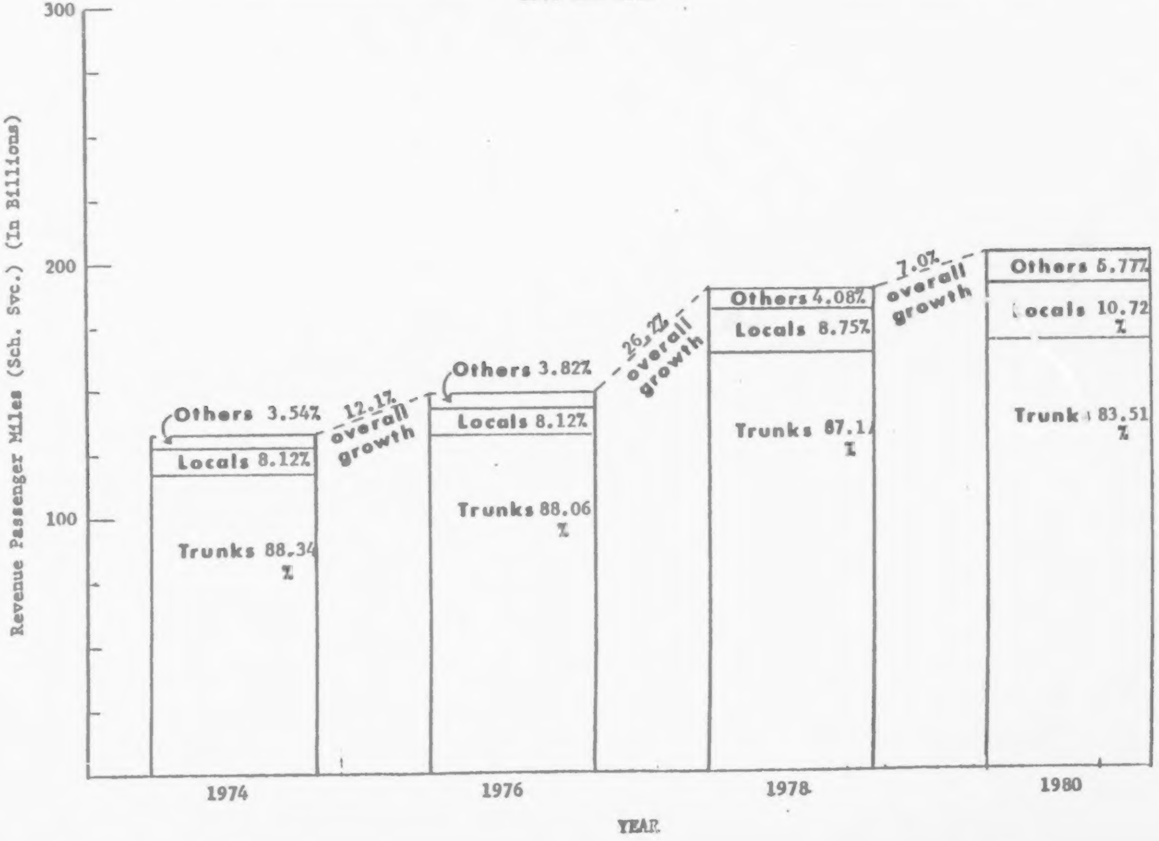
1/ If the cost difference is due entirely to differences in input prices, the growth of a low cost carrier does not represent an efficiency gain since an efficiency gain requires a resource saving. To see this, consider two airlines using the same amount of fuel per revenue ton mile, but one pays 50 percent less than the other. The lower cost airline in this case is not more efficient, because it is not able to produce more output with a given amount of fuel.

2/ We showed earlier (see Table 6, page 36) that for a given aircraft type serving a short haul market, the "low cost" airlines tend to have the lowest costs among jet aircraft operators, and that local service carriers have lower costs than the trunk airlines.

Figure 5

MARKET SHARE AND GROWTH IN DOMESTIC AIR TRANSPORTATION
REVENUE PASSENGER MILES (SCH. SVC.) (IN BILLIONS) FOR CALENDAR YEARS 1974, 1976, 1978 and 1980



passengers had to make a connection on to another airline to reach their ultimate destinations. Local service airlines, therefore, had strong incentive to enter the longer haul markets that were frequent destinations of their connecting passengers. [1] In addition, in many markets of less than 1,000 miles, the local airlines' aircraft can provide service at a lower cost than the three-engine equipment commonly used by the trunks. Thus, the rapid growth of the local service airlines has cut the costs of serving these markets.

The new entrants have been the fastest growing segment of the industry since the passage of the Airline Deregulation Act. As with the local service carriers, this growth can be explained by their advantages in providing particular types of service--in this case no-frills service in relatively dense markets. The new entrants that offer predominately short-haul service have grown faster than the established airlines, and they have generally been quite profitable. Significantly, former charter carriers who entered scheduled service in long haul markets, have not fared as well though they have greatly expanded their domestic operations. Their relatively poor performance may be explained by two factors. First, these carriers serve the dense transcontinental markets, where, as noted earlier, excess capacity has driven down fares. Second, the operating economies of these carriers relative to established carriers are not as great as those of the "short-haul" new entrants. Since their average stage length is quite long (greater than 2,000 miles), the direct cost of flight operations represents a higher proportion of the fully allocated cost of a trip than is the case with short-haul service. In addition, they generally use the same type of aircraft to provide service as do the trunk airlines

Though deregulation permitted the local service airlines and new entrants to grow relative to the trunk airlines, the trunks have also achieved substantial productivity gains. However, one major problem of the trunk airlines was that they inherited a stock of aircraft from the regulated regime that proved to be poorly suited to the economic events following deregulation. We shall consider this problem before examining the productivity gains of the trunk airlines.

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[1] In Pittsburgh, 32 percent of the total connections were on-line connections of USAir during the third quarter of 1978. This had increased to 46 percent in the third quarter of 1980.

In 1978, about 22 percent of the trunk carriers' ASM's (available seat miles) were provided in fuel inefficient aircraft. 1/ These B-727-100, B-707 and DC-8-50's, manufactured in the 1960's, were designed to operate when the real price of fuel was a fraction of its current levels. Because of the large share of fuel-inefficient aircraft they flew, the rapid increase in the price of fuel during 1979 and 1980 increased trunk carriers' costs more than, for, example, the local service carriers' costs. In addition, 34 percent of trunk carriers' 1978 available seat miles were provided in wide-bodied aircraft. These wide-bodied aircraft are quite fuel efficient, but they are best suited to provide service in dense long haul markets. As industry demand declined, the number of markets declined where wide bodied equipment could efficiently be used. And because of the excess supply of wide-bodied equipment, fares in dense long haul markets did not increase sufficiently to cover rising costs. 2/ Thus to a significant degree, the deterioration in trunk airlines' profits has been due to their fleet mix.

Despite these problems with fleet mix, the following analysis shows that deregulation has enabled the trunk carriers to become more efficient. First increased load factors (or seating densities) have reduced significantly the average cost of service. (The principal cost of operating an airline is flying the aircraft, and as discussed earlier, these costs are scarcely affected by the number of passengers on board.) The increases in load factor seem largely a response to greater price flexibility. In addition, increased aircraft utilization (hours per day) has enabled more service to be provided with a given stock of aircraft. This also reduces average costs.

The principal changes in productivity can be observed by examining changes in load factors, utilization rates, and seating densities of the trunk carriers. These are presented in Table 7 for 1972 through 1980. 1/ Following the introduction of deep discount fares load factors and aircraft utilization rates reached unprecedented levels in 1978 and 1979; as noted earlier, load factors had not been as high since the 1950's. In fact, in 1977, 1978, and 1979 both aircraft utilization and load factors increased. Toward the end of

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1/ Those percentages are based on the last six months of the year.

2/ Board regulation may have contributed to their excess supply of wide-bodied aircraft. Apparently, passengers display a preference for wide-bodied service. Consequently, with fares fixed by the Board, carriers engaging in non-price competition had an incentive to invest in wide-bodied equipment.

1/ In the second quarter of 1978, United Airlines had a 58-day strike and DC-10's were grounded for 25 days. (The DC-10 grounding was in effect for 13 days in the third quarter.) These events substantially distort statistics for the first half of 1979. The increase in load factor between 1978 and 1979 is largely due to those two developments.

Table 7

Domestic Trunk Airline's Equipment Use:
1972-1980

	Load Factors (Percent)	Average Seating Density (seats per aircraft)	Aircraft Utilization Rates (Block hours per day)	Average On-Flight Trip Length (Miles)	Size of Fleet (Number of seats)
1972	52.4	162.0	8.91	792	157,787
1973	51.9	168.5	9.40	797	167,760
1974	55.7	171.5	8.74	795	183,596
1975	54.8	173.6	8.38	810	186,687
1976	55.8	176.9	8.89	819	197,084
1977	55.9	178.8	9.41	820	202,022
1978	61.2	185.3	9.67	837	209,497
1979	63.2	186.9	10.02	854	214,204
1980	58.3	187.7	9.05	884	224,595

Source: CAB Form 41. Seating density, aircraft utilization, and fleet size are weighted averages of aircraft in service during the last six months of each year. The weights are based on aircrafts shares of available seat miles in 1976 for seating density, current year shares of available seat miles are used for the other variables. The B-720, DC-9-10, and A-300 were not operated throughout the entire period. We, therefore, have excluded them from the computation of average seating density.

1979, load factors began to fall, though remaining quite high by historical standards, while aircraft utilization rates increased even further. Load factors and aircraft utilization rates fell in 1980 as demand for air traffic declined; nevertheless, both remained above the levels attained throughout most of the early seventies.

We can examine the effects of these productivity factors on the costs of the trunk airlines by examining changes in their costs relative to the prices of goods and services they buy as inputs. If productivity is constant, airline average costs will increase in proportion with increases in input prices. 1/ However, when productivity increases, average costs increase less rapidly than input prices increase, because fewer inputs are required to produce each unit of output. 2/ This is the pattern we have observed under deregulation. This pattern was also observed under regulation; so we must identify the underlying trends in productivity improvement (that would have occurred independently of deregulation) in order to determine the extent of productivity improvements due to deregulation.

First, to examine how productivity growth has influenced costs, we compare changes in average costs with changes in an index of input prices from 1972 through 1980. 3/ These comparisons are summarized in Table 8. 4/ This table shows the change in total productivity in terms of the changes in cost per revenue passenger mile relative to changes in airline input prices. It also subdivides this measure of productivity change into two categories: (1) the change due to changes in load factor, and (2) the change due to all other factors--stage length, equipment mix, relative growth rates of high cost and low cost airlines, seating density, and aircraft utilization rate.

1/ Constant productivity implies that over time the quantity of inputs required to produce a given quantity of output remains the same. Consequently, average cost increases at the same rate as input prices.

2/ If one factor price increases more rapidly than another, firms will tend to substitute away from the higher cost factor. Thus, even with no productivity improvement, average cost will not increase as rapidly as the average input price. The increase in fuel prices led to some factor substitution by airlines. For example, they reduced cruising speeds to conserve fuel, substituting capital and labor for fuel.

3/ The input price index is a weighted average of factor prices where the weights are 1978 factor shares. Neither the input price index or the measures of costs include the capital cost -- depreciation as well as return to capital. We estimate that these costs were less than 15 percent of trunk airlines' costs in 1978. There were substantial fluctuations in both interest expenses and aircraft prices during much of the period. A reliable index of these costs would be difficult to construct and would not materially affect the index

4/ The total productivity measure is equal to $\ln\left(\frac{CR_t}{CR_{t-1}} \div \frac{I_t}{I_{t-1}}\right)$ where CR_t is the cost per revenue ton mile in period t and I_t is an index of airline input prices in period t. We also developed an index of productivity based on changes in the cost per available ton mile: $\ln\left(\frac{AR_t}{AR_{t-1}} \div \frac{I_t}{I_{t-1}}\right)$, where AR_t is the cost per available ton mile in the period. For quarterly data on the input price index and costs, see the appendix. The difference between the total productivity measure and the ATM productivity measure is approximately equal to the productivity change due to increased load factor. It would be equal if there are no additional costs associated with increasing the number of passengers on a flight.

Table 8
Annual Rates of Change in Trunk Airline Costs
Due to Productivity Improvements

	Due to Load Factor (%)	Due to Other Factors (%)	Total Rate of Change (%)
1972-73	0.20	-0.30	-0.10
1973-74	-6.99	1.21	-5.78
1974-75	2.11	-3.22	-1.11
1975-76	-3.72	-3.61	-7.33
1976-77	-0.98	-2.85	-3.83
1977-78	-8.35	-0.70	-9.05
1978-79	-2.11	-0.49	-2.59
1979-80	7.56	-2.61	4.95

Prior to deregulation, changes in productivity appear to be dominated by two factors. First, early in 1974, faced with the Arab oil embargo, the airlines entered into capacity control agreements to reduce flights and to conserve fuel. 1/ This was largely responsible for the 5.1 percent reduction in domestic trunk ASM's and the 3.8 point increase in load factors in 1974. Hence, these capacity limitation agreements sharply increased productivity.
In 1975, after the embargo ended, load factors fell, and consequently the productivity due to load factors also fell by two percentage points. Load factors, and productivity rose during the economic recovery in 1976.

Also, in the early seventies, the stock of wide-bodied aircraft and especially three-engine wide-bodied aircraft increased greatly. In 1973, only 5.3 percent of domestic trunk available seat miles were provided with DC-10's and L-1011's. This percentage increased to 24.3 percent by 1976 and then leveled off: the share was 25.6 percent in 1978. As already noted, these aircraft had important economies over existing aircraft in many dense long-haul markets. 1/ Productivity gains unrelated to load factors increased at an average annual rate of more than 3 percent between 1974 and 1977. It appears this growth rate is due largely to the expansion of the wide-bodied fleet.

Our earlier discussion indicated that since deregulation, changes in productivity have been dominated (1) by increases in load factors, due initially to the availability of deep discount fares, and by a later reversal

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1/ The oil embargo also reduced gasoline availability thereby encouraging travelers to substitute air travel for automobile travel.

1/ B-747's, a four engine wide-bodied jet, accounted for 12.3 percent of ASM's in 1972. This percentage declined as three-engine aircraft entered service; it fell to 9.2 percent in 1976 and 8.5 percent in 1978.

in load factors due to the recession and rising air fares in 1979-1980; and (2) by increases in aircraft utilization, and stage lengths made possible by the eased entry restrictions under deregulation.

As shown in Table 7, load factors increased dramatically from 56 percent in 1977 to 61 percent in 1978 in response to the institution of restricted deep discount fares. Table 8 shows that productivity increased accordingly: 1978 had the greatest increase in productivity of any year in our sample. Load factors increased slightly in 1979 to 63 percent. In 1980 load factors retreated to 58 percent, and there was a corresponding drop in productivity.

Productivity growth from sources other than load factor declined after 1976, despite the increases in seating density and aircraft utilization that have occurred. In part this is because the fleet mix had stabilized by 1977: although B-727-200's became more important through the period, the productivity improvement from the increased numbers of wide-bodied aircraft was largely achieved by the mid-seventies. 1/ This slowdown in productivity growth from sources other than load factor was reversed in 1980. 2/ Such a trend reversal is entirely consistent with our earlier analysis: airlines are redesigning their route systems and modifying their operations to better use their equipment. (Some airlines have also retired their most fuel inefficient aircraft.) Moreover, even among the trunks, the most efficient airlines are accounting for a larger share of the traffic. These actions are apparently resulting in increases in productivity.

The sharp decline in total productivity in 1980, seems to be a short term cyclical development, caused by the sharp decline in load factors from historically very high levels, which were only partly offset by increases in productivity from other sources. These high factors were largely a consequence of the increased fare flexibility granted carriers by the Board in the first steps toward deregulation. As the economy and fuel prices stabilize, discount fares should enable carriers again to achieve substantially higher load factors than they did in 1980. It is significant that despite a very difficult year, the average load factor of 58.3 percent in 1980 exceeded load factor in every year since 1966; even when capacity control agreements were in effect in 1974, the domestic trunk's load factor was only 55.7 percent.

1/ The A-300 a two-engine wide-bodied aircraft was introduced in 1978. By 1980, it still accounted for less than 1.5 percent of the ASM's.

2/ The increase in productivity between 1979 and 1980 is overstated in Table 8. First, the low rate of productivity growth in 1979 is partially the result of the DC-10 grounding and the United strike. Second, part of the increase in 1980 is due to fuel conservation measures that would have been taken regardless of deregulation. Finally average stage length increased more rapidly in 1980 than it had in 1978 or 1979. (See Table 7.)

The effect of these productivity gains on the traveler's pocketbook can be seen by comparing increases in average air fares (average revenue per revenue per ton mile) with the increases in airline costs. This is done in Figure 6. Between 1976, the year prior to the approval of restricted discount fares, and 1980 airline input prices increased by 77.7%, while carriers average yield increased by only 46.4% 1/

Over the next several years, the effects of deregulation in airline costs should become even more evident. The first effect of fare and route flexibility was to allow airlines to make better use of their existing aircraft. Deregulation will allow carriers to provide a given level of service with a smaller fleet of aircraft. Moreover, the more efficient airlines will continue to grow, and their growth will put pressure on less efficient carriers to increase their productivity.

Changes in Service

In Section II, we described how airlines have begun to realign their route networks. To assess how these changes have affected the convenience of air travel, we have constructed an index to measure changes in schedule convenience. This index confirms some of the important changes in service patterns noted earlier. For example, in the past year many airlines seem to be deemphasizing secondary hubs and focussing more activity in their primary hubs. 1/ Thus medium hub communities are used less for connecting traffic. The remaining traffic at those communities can support less service, and as a result, we find that the convenience of service at medium hub communities has declined on average. At the same time smaller hub communities are getting more direct service to the principal hub rather than the medium hubs. Our index shows that these communities are receiving more convenient service than before. The pattern of change reflects a realignment of routes serving small and medium communities, not an abandonment of these markets.

Before investigating the convenience of air service, it is useful to review how the levels of air service have changed in recent years. Table 9 shows national totals of scheduled domestic airline departures for each of

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1/ For quarterly data on average fares, see the Appendix. Local service carriers' costs increased by 64.5 percent, a rate 9 percent lower than the trunks experienced. A large part of this difference results from fuel's lower share of total costs for local service carriers than for the trunks. Fuel represented 21.2 percent of trunk costs in 1978, while it represented 18.6 percent of local service carriers' costs. The smaller increase in the local service carriers' cost index is partly a consequence of their relatively more fuel efficient aircraft and shorter stage lengths.

1/ See Civil Aeronautics Board Staff Study, Report on Airline Service, Fares, Traffic, Load Factors, and Market Shares, No. 13, January 1981, p. 48

Figure 6

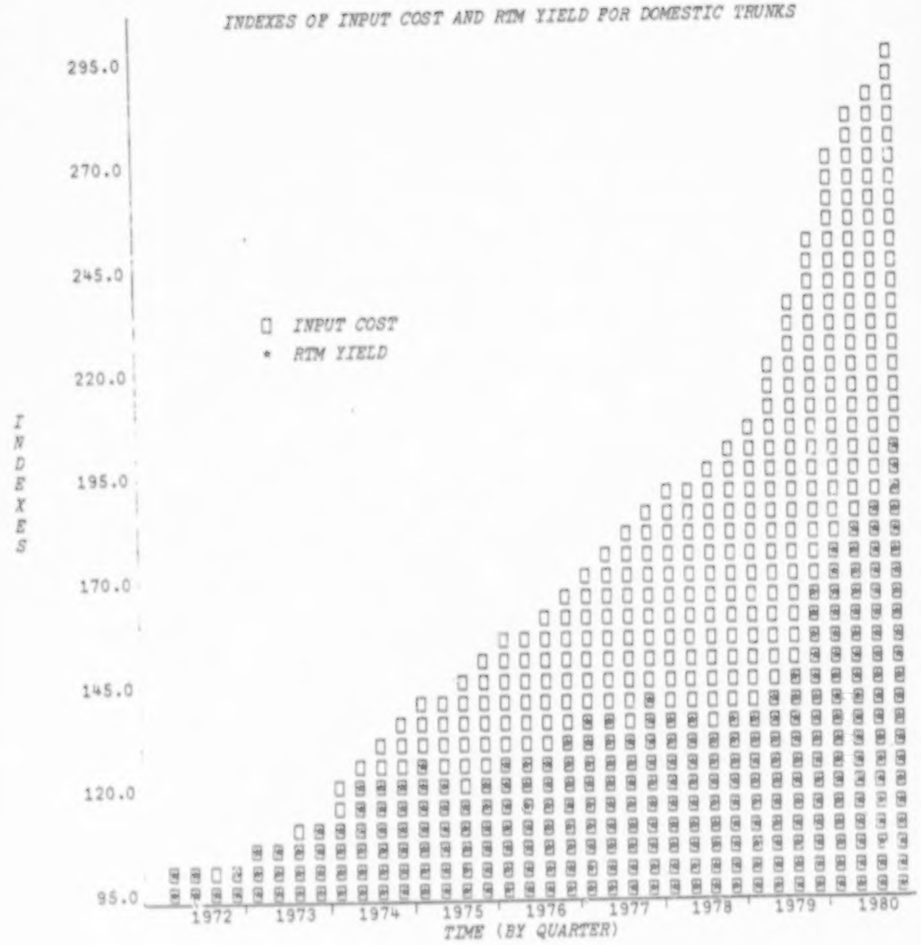
INDEXES OF INPUT COST AND RTM YIELD FOR DOMESTIC TRUNKS
295.0
270.0
245.0
220.0
195.0
170.0
145.0
120.0
95.0
INDEXES
□ INPUT COST
* RTM YIELD
1972
1973
1974
1975
1976
1977
1978
1979
1980
TIME (BY QUARTER)

Table 9: Departures/Week/Airport

	Large Hubs		Medium Hubs		Small Hubs		Non-Hubs		Total	
	Departures	Index 1/	Departures	Index	Departures	Index	Departures	Index	Departures	Index
Nov. 1, 1976	57,275	90	18,592	80	13,396	89	27,555	100	116,818	90
Nov. 1, 1977	62,008	97	19,134	82	14,776	98	25,421	92	121,339	94
Nov. 1, 1978	63,646	100	23,302	100	15,078	100	27,584	100	129,610	100
Nov. 1, 1979	67,111	105	24,194	104	15,334	102	28,194	102	134,837	104
Nov. 1, 1980	64,355	101	22,319	96	14,256	95	25,335	92	126,265	97

SOURCES: OAG, CAB, Report on Service, Fares, Traffic, Load Factors, and Market Shares, (No. 13, December 1980) Pgs. 44-5.

1/ Index is a ratio index with November 1, 1978 = 100.

four airport size categories, as well as for all airports. The departure statistics are reported for the first week in November, going back to 1976. By November 1, 1979, total departures were 16 percent greater than in 1976. Each airport category gained a substantial number of departures over the period. Medium hubs experienced the most rapid growth over this period: flights increased by 26 percent. Large hubs and small hubs experienced increases of about 20 percent. Nonhubs had only five percent more flights in November 1979 than in November 1976. In the two years before deregulation, flights had declined by eight percent in nonhub markets, and this trend has reversed since deregulation. Thus, nonhubs had 13 percent more flights in November 1979 than in November 1978.

Comparison of departures in November 1980 with November 1979 shows the effect of the recent reduction in air travel on airline operations. In total, departures declined about seven percent between 1979 and 1980. Departures declined in every hub category. The largest decline was 10 percent in the nonhub category. The smallest decline was 4 percent in the large hubs.

Despite the recent cutbacks, all of the market categories except the nonhubs receive substantially more service now than in 1976. The nonhubs are receiving about the same number of departures now as in 1977. These departure figures show that when considered in total, each size category of airport receives about the same or more flights now than before deregulation. Many communities have lost service, while others have gained; there is no overall pattern of abandonment of service to communities of any size.

The changes in departures no doubt have affected the convenience of service. However, the route realignments described earlier, have also affected the convenience of service. For example, prior to deregulation small communities were often served by multistop flights; multistop itineraries have declined sharply since deregulation. 1/ Many small communities have obtained commuter service, which often is better timed and more direct than certificated service the commuter have replaced. As another example, the airlines have shifted routes to provide more single airline service in markets that require connections, and a greater share of connections are being made at large hub airports. Because of these developments, changes in departures provide an imprecise measure of changes in the convenience of service.

1/ For example, between June 1978 and June 1979 the number of itineraries increased by 60 thousand, the number of one stop itenararies increased by 8 thousand, while the number of multistop itineraries declined by more than 28 thousand. CAB, "Report on Airine Service, Fares, Load Factors, and Market Shares, (No. 8, November 1, 1979) p. 6.

Service convenience in a market depends on the time of day flights are offered, the duration of those flights, and the ability of passengers to secure a reservation on their preferred flight. To determine the probability of a passenger's getting a reservation on a given flight requires information that is not available. 1/ Therefore our discussion of service convenience focuses on an index of travel time which reflects the timing of departures and arrivals as well as the actual time required in making the trip. To compute this index, we have simulated trips in about 200 markets in each year since 1976. In the simulations, hypothetical travelers, with desired arrival times spread evenly through the peak travel hours of day, choose from among available direct and connecting flights. 2/ The flights chosen provide the combinations of speed and convenience that best suits their preferences. 1/ Finally, for the chosen flights, we calculate an index which combines the average difference between arrival times and the travelers' preferred arrival time ("schedule delay") and the total elapsed time of the flight ("flight duration"). 2/

1/ To determine the probability of a passenger being denied a reservation on his preferred flight requires information on, among other things, airlines allocation of restricted seats and the variability of demand in a given market across hours of the day and days of the week.

2/ Some travelers place weight principally on the duration of the flight, *i.e.*, they would take the fastest available flight no matter what time of day it arrives. Others place more weight on the arrival time, and in some cases would take a connecting flight that arrived near to the desired arrival time even when a direct flight is available at some other time of day. The simulations considered a wide range of travelers' preferences.

The flights available in a market were identified using Official Airline Guide (OAG) listings, which are available on computer tapes. These tapes list all the direct flights between city-pairs that appear in the printed OAG volumes. Connections are constructed from the direct flight listings by matching direct flights from the origin city to a connecting city with flights to the destination city from the connecting city. As many as 15 connecting cities were considered for a single city-pair market.

In constructing connections, time limits were set so that only reasonable connections would be included for consideration. The minimum connecting time is 20 minutes. A maximum connecting time of two hours was set for flights where both the origin and destination is large hub or medium hub. A maximum of three hours was allowed whenever the origin or destination was a small hub or a nonhub.

Only flights with a single connection (but possibly several intermediate stops) were included in the analysis. For most of the markets included, this was not a serious limitation, and the added costs and complexity of selecting multiple-connection itineraries were considered prohibitive.

1/ In order to estimate passengers preferred arrival times we considered the arrival time in three dense markets--New York-Boston, New York-Chicago, and New York-Los Angeles. The peak travel hours in these markets were between 3 p.m. and 10 p.m. Traffic remained at a relatively uniform plateau throughout these peak hours.

2/ Schedule delay is a term introduced by Douglas and Miller. In their usage, schedule delay included the difference between desired arrival or departure time and the actual time of arrival or departure *plus* an expected delay due to possibility of not getting on the flight of first choice. Our definition does not include this adjustment for availability of seats.

The duration of a flight depends on aircraft speed, whether the route is direct or circuitous, and the time required to make connections. Schedule delay depends on the frequency of flights and the timing of their schedules. 3/ When both flight duration and scheduled delay are reduced, the traveler is clearly better off. But sometimes a tradeoff is involved in choosing among flights. For example, one available flight may be longer, but involve less schedule deviation than another. Which flight the traveler prefers depends on the traveler's preferences. 1/

The markets in the simulation were selected to include markets of all sizes. Eight categories of markets are considered, ranging in size from large hub-large hub markets, to small hub-small hub markets, to nonhub markets. 2/

3/ It should be noted that, in addition to frequency, schedule delay will also depend on the share of flights that are direct (or markedly faster than others), because travelers will sometimes choose a direct flight even though a connecting flight would result in less schedule delay. More frequent and more direct flights will clearly reduce schedule delay, but other changes in flight scheduling will have less clear-cut effects.

1/ To see how this affects our index over time, consider a small community market with two jet flights a day in 1976, and 10 turboprop flights a day in 1978. Flight duration increases and schedule deviation decreases. To know how a particular traveler evaluates such a change, it is necessary to know how the traveler values flight duration relative to schedule deviation. We have assumed that a traveler places slightly more weight on travel time than on schedule delay. In the simulations, a traveler would be assumed to be indifferent between a flight that arrives an hour earlier or later than desired as compared with a flight that arrives right at the desired time, but that takes 45 minutes. Other assumptions were tried in the analysis, and our findings were not very sensitive to the value of the tradeoff assumed.

2/ A total of 210 markets were selected for the analysis. One hundred and twenty are markets connecting one FAA-designated traffic hub with another hub. To assure that substantial numbers of markets of all sizes were included in the analysis, our sampling procedure consisted of selecting 20 markets from each of the six possible combinations of airport pairs that can be constructed from the three FAA hub categories (i.e., large hub-large hub, large hub-medium hub, large hub-small hub, ... , small hub-small hub.) Large hubs include airports in the 24 cities in the U.S. with the most air travel. The medium hubs include the next 36 highest ranking traffic cities. These are 71 small hubs, and there are 536 nonhubs.

Because of the large number of nonhubs, and the small amount of traffic flowing through each, we found that when nonhub markets were drawn at random the result was often a market with little or no traffic. For example, one such randomly selected market was between Sheridan, Wyoming, and Tupelo, Mississippi. We therefore relied on a more systematic selection procedure for the markets involving nonhubs. First, we selected 30 nonhub cities at random. We then identified the three markets of these cities with the most traffic, and included these markets in the sample. Thus, a total of 90 nonhub markets included. By selecting the top three markets, we can be assured of reflecting the trips made by a substantial fraction of the nonhub travelers. At the same time, by choosing three markets, we avoid focusing too narrowly on only the traffic between the nonhub and its principal neighboring hub airport.

Table 10 describes the size categories of markets included in the simulations, and presents the results of the simulations for June, 1980. A comparison of the averages across market categories shows that travel speed increases as market density increases, and schedule delay decreases as market density increases. For example, an average passenger in the simulation travels at an average speed of 204 miles per hour in markets connecting two small hubs. The comparable travel speed between large hubs is 351 miles per hour. On average, the passengers travelling between two small hubs choose flights that are 68 minutes before or after the preferred arrival; the comparable schedule delay averages only 40 minutes for the passengers travelling between large hubs. As we noted earlier, this pattern is consistent with economically efficient determination of service levels, because more densely traveled markets can support more frequent, direct service on average than can thin markets.

Table 10: Description of Markets in Sample
(Data for June 1980)

Market Category	Market Density (Average Travelers per day)	Average Trip Length	Average Speed in Transit (mph)	Average Schedule Delay (minutes)
1. Large Hub-Large Hub	386	995	351	40
2. Large Hub-Medium Hub	180	1,223	328	47
3. Large Hub-Small Hub	33	1,047	259	63
4. Medium Hub-Medium Hub	21	927	231	55
5. Medium Hub-Small Hub	12	935	250	90
6. Small Hub-Small Hub	3	904	204	68
7. Nonhub Markets	18	322	183	72

To examine changes in travel convenience from 1976 to the present, Table 11 presents ratio indexes of travel time costs and schedule delays for each market category, November 1978 is the base period for these indexes. The indexes indicate relative time costs of travel, so smaller values indicate improvement. In addition to the market categories already described, the index was also calculated for three very densely traveled markets to serve as a baseline. 1/

The baseline market and the large hub market categories exhibit little variation in time costs over the 1976 to 1980 period. Over the four year period, the index varied only about 1.5 percent in the baseline markets. Thus,

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1/ The baseline markets are New York-Boston, New York-Chicago, and New York-Los Angeles.

Table 11: Indexes of Travel Times and Schedule Delays

	Baseline Markets 2/	Hub Market Categories 1/						
		l-l	l-m	m-m	m-s	l-s	s-s	Non-hubs
November 1976	99.8	100.2	97.1	101.2	108.1	95.6	89.6	104.0
November 1978	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
November 1979	99.0	101.9	99.2	99.0	106.4	95.8	94.7	97.1
November 1980	100.5	101.2	102.0	96.8	108.8	94.3	90.6	99.8

the convenience and speed of service in these very dense markets has remained essentially unchanged. The large hub category shows that travel times have risen slightly in markets connecting large hubs. 2/ The speed of flights and the convenience of departure and arrivals has been little affected by the changes in departures in large hub markets.

Next, consider the three categories of markets serving medium hubs. Travel times have increased slightly, about two percent, in the large-medium category since deregulation. It appears this increase continues a trend established prior to deregulation, because the index rose about three index points between 1976 and 1978. Medium-medium markets have experienced reductions in travel time costs of about three percent, and this also continues a trend established prior to deregulation.

The medium-small column shows that travel time costs declined sharply between 1976 and 1978, but this trend has reversed. The index in 1980 is essentially the same as in 1976. It is noteworthy that the inverse of this pattern is reflected in both the large-small category and in the small-small category. In both of these categories, the travel time index increased between 1976 and 1978, but has reversed since 1978 and returned to its preceding levels.

This improvement in service convenience at small hubs suggests that airlines are feeding relatively more small hub traffic directly into large hubs. As a result, the convenience has improved in large-small markets.

1/ l=large hub; m=medium hub; s=small hub.

2/ The baseline markets are New York-Boston, New York-Chicago, and New York-Los Angeles.

2/ As fuel prices have increased the airlines have adopted flight procedures designed to reduce fuel consumption. These procedures tend to reduce average flight speeds, and would therefore be reflected in an increase in our travel time index.

Small-small market trips virtually all require connections, so the improvement in large-small market service would also imply an improvement for this category. These improvements in service convenience have continued in 1980 despite the overall decline in departures to small hubs.

The other consequences of this shift in service patterns is that medium hubs handle less connecting traffic, and now can support less service in the markets fed in the past by these connections. One indication of this is that as we noted earlier medium hub communities have experienced the greatest percentage declines in departures in the past year. As a result small-medium travel time costs have increased -fewer small community flights feed traffic into medium hubs. In addition, medium-large travel time costs have gone up -- with less feed, fewer flights can be supported in these markets. Medium-medium travel time costs have gone down, but the amount of direct and nonstop service in these markets has declined.

In nonhub markets, the travel times index has declined since 1976, but has remained essentially unchanged since deregulation. These communities often receive more frequent service now, but with slower, propeller aircraft. Thus schedule delay has tended to fall while flight times have increased. These changes have effectively cancelled out on average in our index.

The travel time index shows that shifting service patterns as well as changes in the number of flights under regulation are affecting airline service. It appears that the airlines are deemphasizing their secondary hubs at medium sized communities, and are providing more direct service from smaller communities to the major hubs. 1/ The result has been a decline in the convenience of service for the medium hubs, and despite the recent decline in departures, an increase in the convenience of service for many smaller communities. It should be concluded from our travel time index as we concluded earlier from the departure statistics, that there has been no wholesale abandonment of small community service under deregulation. Indeed, our travel time analysis indicates that the small hub communities have experienced substantial improvements in service convenience.

1/ Airport traffic statistics tend to confirm the hypothesis that service networks are being altered to concentrate more connections at major hubs. First, we have found that connect plus through trips (single plane with stops) have declined from 48 percent of total traffic to 43 percent of total at the large and medium hub airports. Thus a greater share of trips are direct. At the same time, more of the connections and through trips are being made at the large hub airports. Between 1978 and 1980, the percent of through trips stopping at major hubs rose from 58 percent to 64 percent. The percent of connections rose from 78 percent to 79 percent.

IV.

CONCLUDING REMARKS

The four developments we have considered--discount fares, fares and service tailored to market demands, route realignments, and entry by "low cost" airlines--have already been reflected in the fares travelers pay and the quality of service offered. Although our analysis has focused on specific developments, our findings also shed light on some of the issues raised by opponents to deregulation in the debates on the Airline Dergulation Act. Three of the common arguments raised against deregulation were (1) deregulation would lead to monopoly in the industry or in many markets, (2) deregulation would destroy the integrated airline network and cause cutbacks in service to small communities, and (3) deregulation would permit destructive competition, which would financially destabalize the industry. We will conclude by considering these arguments in view of the evidence we have presented in the foregoing analysis.

Some opponents to deregulation feared that a few airlines would grow to dominate the industry, and thus were concerned that deregulation would reduce competition. In the debates over deregulation, several studies provided evidence that airlines did not exhibit economies of scale, and therefore that there was no reason to expect the larger airlines to dominate smaller airlines in a competitive environment. In fact, as we have shown, the present trend is toward less concentration: smaller airlines tend to be growing faster than larger airlines. To date, therefore, the evidence suggests that there is little likelihood that the industry will evolve into a highly concentrated oligopoly or monopoly.

The development and exercise of monopoly power in individual markets was also feared by the opponents to deregulation. They feared airlines would set fares that substantially exceed the costs of service in markets where competition is weak. Proponents of deregulation reasoned that with free entry carriers could not price at monopoly levels without attracting entry into the market by a competing airline. Indeed, new and established airlines have been very active in entering markets since deregulation. 1/ This suggests that

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1/ We have shown (see page 50) that substantial new entry has occurred in non-stop markets. In addition, competition for a market can come from one stop and connecting service. Thus, competition for traffic in a market may also be between alternate intermediate and connecting points.

A detailed analysis of entry barriers, and of the alternative forms of competition is presented in David Sibley, et. al., "Antitrust Analyses in a Deregulated Airline Industry," (forthcoming).

there are not substantial barriers to entry in most markets, and that potential competition is disciplining airlines' pricing and service decisions.

The second concern of opponents to deregulation was that deregulation would destroy the integrated airline service network, and cause the abandonment of service to small communities. They believed that regulation permitted the cross-subsidization of service in unprofitable markets by the profits earned in other markets, and that those unprofitable markets would be dropped once competition was introduced. However, as we discussed earlier, the "adequate service" provision of the Board's certificate authority had little or no direct influence on the service provided small communities by regulated airlines. And the extensive competition in the airlines' major routes left little excess profit for cross subsidy.

Indeed, in some important ways the air service network has become more integrated under competition. For example, traffic at the major airports reveals that fewer trips today require connections than in 1978. And of the trips that require connections, a greater share are made with a single airline than before. In addition, airlines appear to be shifting some of their connecting service from secondary hubs to the major hubs, and as a result, many smaller communities are getting more direct service to their ultimate destinations.

We have also found that there is no tendency toward abandonment of small community air service. Trunk and local airlines have deleted service to many cities, but commuters have replaced them. The commuters often provide service that is better-timed and more direct than did the trunk or local service airlines they replace. Many of the cities deleted had received subsidized service from a local service airline; those that continue on subsidy for commuter service cost the taxpayer far less on average. The acceptance of commuter replacement service by the local communities is reflected in the rapid growth rate of the commuter airlines. Thus the initial trends in airline service suggest that the fears that the air service network would be destroyed, and the small communities abandoned have not materialized.

The third concern of opponents to deregulation was that it would cause destructive competition, which would financially destabilize the industry. They believed the airlines would compete prices down to cover out-of-pocket costs on competitive routes, and thereby earn losses that would drive weaker airlines out of business. Indeed, we have observed fare wars, in which fares did not cover fully-allocated costs. These fare wars have been primarily in the long haul markets, while in most other markets fares appeared to be sufficient to recover long run costs and are in part, a reflection of the wide-bodied aircraft that serve those markets. Fare wars in other markets have tended to be short lived. Carriers do not continue to offer capacity in markets if that capacity can be used more profitably elsewhere.

An indication of the optimistic outlook for the industry is the large purchases presently being planned of the new generation of fuel efficient aircraft: the trunk and local airlines have more aircraft on order now than at any time since at least 1976.

That these three reasons for opposing deregulation have not been borne out to date, leads us to conclude that the proponents were correct in minimizing these "downside risks" of competition in the airline industry. At the same time, the developments described in our preceding analysis suggest that there have been some significant benefits. Over time, competitive forces will continue to shape the industry: the share of air traffic carried by more efficient airlines' will grow, while all airlines will strive to improve their productivity, and to tailor their route networks and service levels to customer demands.

Appendix A: Sample of Markets

Markets Included in Fare, Load Factor, and Aircraft Size Tables

The initial sample consisted of 500 markets: the top two hundred origin and destination markets for the year ending June 1978 and a random sample of 300 smaller markets that received non-stop service in 1978. Markets that did not have data for both 1978 and 1980 were eliminated from the sample as were markets involving intra-Alaska and intra-Hawaii service. The totals show that in editing, 4 markets were dropped from the top 100, 5 markets were dropped from the second 100, and 151 markets were dropped from the random sample of 300 smaller markets.

	Market Size Category		
Market Distance	Top 100 Markets	Second 100 Markets	300 Smaller Markets
0-200 miles	5	7	52
201-500 miles	31	31	55
501-1000 miles	26	30	24
1001-1500 miles	17	12	12
1500 + miles	17	15	6
Total of All Distances	96	95	149

COST AND YIELD INDEXES

1972 - 1980
(by quarters)

	TRUNKS				LOCALS			
	Input Cost	Yield per RTM	Cost per RTM	Cost per ATM	Input Cost	Yield per RTM	Cost per RTM	Cost per ATM
1972	52.6	72.8	69.1	57.4	56.4	77.6	75.3	64.8
	52.5	72.1	65.3	57.0	57.3	75.8	72.1	66.1
	53.1	70.5	60.8	58.1	56.3	72.9	64.8	63.5
	53.5	73.1	66.5	58.9	55.2	75.7	70.3	65.2
1973	55.4	75.2	72.6	60.7	56.8	76.1	75.6	66.2
	55.7	75.2	67.6	60.2	57.4	78.9	71.8	66.6
	56.9	74.7	66.0	58.9	58.2	77.8	72.0	65.1
	57.8	78.4	72.2	66.5	60.1	78.6	72.8	68.9
1974	63.5	81.1	76.0	74.2	64.6	82.3	78.3	78.1
	66.3	85.7	74.8	74.4	66.5	86.6	76.5	78.8
	69.1	86.2	76.4	73.5	67.9	88.0	80.1	77.4
	70.4	88.6	86.7	75.0	70.1	90.1	89.4	79.9
1975	73.0	90.2	91.7	78.2	74.3	90.8	98.8	85.4
	73.0	87.4	85.2	78.2	75.0	93.5	91.2	85.0
	75.9	84.4	81.4	79.0	77.8	92.7	87.6	84.9
	78.7	87.4	88.1	86.0	78.4	92.1	87.7	86.7
1976	81.9	89.6	92.7	86.1	83.2	93.5	95.7	89.3
	82.5	91.2	85.3	84.4	84.1	96.3	90.1	89.0
	84.2	92.2	85.6	84.2	85.9	97.3	89.7	88.5
	85.7	96.3	94.2	89.7	87.4	98.9	94.9	91.5
1977	88.8	97.4	95.4	91.5	90.5	98.4	95.5	92.3
	92.3	97.6	94.2	92.0	92.6	99.7	94.5	92.6
	94.2	95.9	91.3	91.6	96.9	100.1	92.8	93.3
	97.3	101.0	99.5	97.8	96.9	107.7	97.0	96.2
1978	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	100.3	98.6	93.1	102.1	100.3	102.2	92.2	100.6
	102.5	96.4	88.8	99.7	102.3	99.9	90.3	99.3
	104.4	99.9	101.4	102.9	102.3	101.0	96.6	98.3
1979	108.5	99.2	102.3	107.1	106.6	97.8	98.4	100.9
	115.4	102.5	101.7	122.2	109.6	99.2	89.3	104.9
	124.9	103.9	108.9	118.9	118.4	108.8	104.7	112.7
	132.2	118.6	123.1	129.4	125.1	121.5	124.4	120.3
1980	141.6	129.0	140.5	137.5	135.2	119.3	122.4	121.0
	146.7	131.0	135.9	141.3	139.8	123.4	124.7	125.4
	151.7	134.3	138.8	142.0	141.6	133.3	131.1	127.1
	155.3	148.9	152.7	150.3	145.6	143.8	134.1	130.7

100 equals 1978 1st quarter

EFFECTS OF DEREGULATION ON CARRIERS

Senator ANDREWS. It is clear that several U.S. carriers, and about five come to mind immediately, are on the verge of bankruptcy. The top 10 trunk carriers lost $101 million in 1980 and $355 million in 1981. How large a part has deregulation played in contributing to these losses? Can you provide for the record the specific details which led you to your conclusion?

Mr. MCKINNON. It seems to me that there is more at fault by a long shot than deregulation. It is the economy. It is the interest rates. The PATCO strike caused additional problems.

Senator ANDREWS. I keep reading in the paper that Braniff, for instance, saw deregulation coming down the pike and made some decisions based on deregulation that really raised havoc with their financial statement.

PanAm, I understand, picked up a domestic airline——

Mr. McKINNON. National.

Senator ANDREWS [continuing]. To give them the feeder traffic that they needed. Just as they consummated the deal, the feeders did not count for anything, because PanAm could have gone out and picked up the routes they wanted on the open market.

A number of other airlines experienced problems because of deregulation. You seem to think that deregulation has not played a part in contributing to these losses.

If you could provide for the record the details that led you to that conclusion, it would give us some basis on which to go.

Mr. McKINNON. Yes, sir, I will be happy to do that. I would like to make a comment and to place in the record some information that we have on North Dakota relating the rates and fares there to the averages around the country.

[The information follows:]

North Dakota Fares are Comparable to Fares in Similar Markets Thoughout the United States

* Fares for 60 top markets serving North Dakota cities were compared with fares for markets of similar distance and density (passengers per day) throughout the United States.

* North Dakota travelers pay about the same fares as nationwide.
-- In 4 out of 10 cells of the table below North Dakota fares are lower than the national average. These four cells contain 32 -- or slightly over half of all North Dakota markets.

Fare Per Mile (cents):

North Dakota Fare vs. National Average

Market Distance in Miles

Passengers Per Day in Market	0-200	201-500	501-1000	1001-1500
0-25:				
North Dakota	35.5 (2 mkts)	31.6 (7)	22.6 (14)	14.9 (28)
National Avg.	44.4	29.3	20.6	15.1
26-50:				
North Dakota		24.0 (1)	21.0 (3)	
National Avg.		26.6	18.4	
51-100:				
North Dakota	15.0 (1)	27.5 (2)	26.0 (1)	
National Avg.	38.9	25.6	17.1	
101-200:				
North Dakota		33.0 (1)		
National		25.6		

PROBLEMS OF AIRLINES

In recent years, a number of formerly regulated carriers have experienced very poor operating results. Generally, those carriers that tend to serve in long haul markets using large equipment have been the most adversely affected. On the other hand, a number of other formerly regulated carriers have been quite profitable.

The financial difficulties of many of the former trunk airlines can be attributed largely to four causes: (1) the sluggish economic growth of recent years, which has tended to affect leisure travel more than business travel; (2) skyrocketing fuel costs, which have made obsolete many of the trunks older, less efficient aircraft; (3) serious managerial errors made by some of these airlines; and (4) deregulation. It is not possible to determine the extent to which each of these various factors has contributed to the former trunk carriers' financial difficulties.

The former trunk airlines tended to serve predominately the longer haul and more densely traveled markets under regulation. These markets generally have a larger proportion of discretionary or vacation travelers than do shorter haul markets. Though both business and discretionary travel tend to be affected by the general economic environment, leisure travel tends to be affected more so. Consequently, demand for air travel has been down in these longer haul markets which has encouraged price cutting and lowered equipment utilization. Both of these factors has had an adverse impact on the trunks' profitability.

Since these trunks tended to serve longer haul and dense markets they generally purchased larger equipment. For example, about 35% of the trunks' available seat miles are provided in wide-bodied aircraft. Though these aircraft are quite efficient, they can only be profitably used in relatively dense, long haul markets. Thus, the trunks have been unable to profitably redeploy this equipment given the slack demand in these markets. In addition, the trunks tended to have a relatively large number of older, fuel inefficient aircraft. The rapid rise in fuel prices in recent years has had a disproportionate impact on the cost of operating these aircraft, and has accelerated their obsolesence; this has also had a negative impact on the trunk airline profitability.

A number of airlines have made what appear to have been serious managerial errors shortly following the passage of the Airline Deregulation Act. It is generally acknowledged in the financial community that Pan American's purchase of National Airlines was a very costly mistake. While Braniff's rapid expansion in 1979, shortly before the rapid rise in fuel prices, contributed to the current financial difficulties.

But finally, deregulation probably has had some impact on the trunk's profitability. Competition among the airlines has prevented high cost airlines from fully passing on cost increases in the form of higher fares, and has led to price reductions in some markets which have not stimulated equivalent increases in travel. Also, smaller carriers have grown and undoubtedly have taken traffic away from the larger trunk airlines.

Nevertheless, deregulation has also had an important role in mitigating the problems of these trunk carriers. It has allowed them to exit markets which were not profitable, and it has allowed them to consolidate their operations and develop strong connecting hubs so that they can more efficiently provide air service.

DEREGULATION ERRORS

Mr. McKinnon. It seems to me, as I study this, you had a certain breed of operator running the airlines under regulation, and evidently they were pretty good at running it that way. When we went to a different type of system, deregulation, those people just did not know how to operate and function and they made some very basic mistakes.

You brought out the examples of PanAm buying National and of Braniff expanding all over the country and the world. They made some bad decisions because they did not understand how competition works.

Now there's a different type of person running those airlines. You have a competitor-type individual. I have talked to the presidents and chief operating officers at Braniff, Western, Continental, PanAm, Eastern, Delta, American, United, mostly everybody, and none of them that I have talked with——

Senator Andrews. You are a popular guy in that set, aren't you?

Mr. McKinnon. I am only popular because they have all came by to share their opinion, and they have all expressed the desire that they don't want the Government telling them what to do. I only name the names to show you that it is a broad spread; it is not just one or two individuals coming in, it is throughout the industry. The bulk of them do not want the Government telling them what to do and how to run it.

Senator Andrews. The Congress oftentimes has to decide to come down on the side of the traveling public and the traveling public's expectations and needs are sometimes different from the expectations and needs of the corporate heads of the airline industry.

The concern that we have is the number of different fares throughout the country and the fact that fares per mile are so totally different in certain parts of the country from what they are in others. We are wondering whether the traveling public is getting a fair shake.

Mr. McKinnon. One of the problems, I think, is that when we went from a regulated environment, we went from one method of operating to competition. We went to a different type of system. I guess some people are going to get treated unfairly under one system, and some will get treated differently under the other system.

ASSISTANCE TO MEDIUM-SIZE CITIES

Senator Andrews. To get back to medium-size cities, they seem to have suffered disproportionately under deregulation, mainly because they are too small to qualify as major airline hubs, and too large to depend on small commuter aircraft to provide the basic air service.

What is the Board doing to help these cities attract nonstop service and encourage airlines to develop markets in those communities? What do you believe to be the Board's proper role in this regard?

Mr. McKinnon. In the small communities, the competition is going to sort out the problems. The figures we have, if I recall the figures correctly and we will be happy to put them in the record, show that there is 3 percent more traffic serving these small communities.

In the past, an airplane would stop at a small community, and it would bounce through about five or six of those on the way to a major city. Nowadays, most of them only have one stop on the way to a major city. They go into a hub, and they can fly from there.

Whereas before they stopped at a variety of places on the way there, now you get to a hub directly and you can connect with another flight and go to the major city of your choice. The hub and spoke concept has become a new ingredient in deregulation in moving passengers from one location to another rapidly, rather than bouncing around through all those little towns.

Senator ANDREWS. Another problem we have in these medium-size towns is that airport operators have been experiencing problems in financing airport improvements through the sale of bonds, apparently because they can no longer count on the air carriers to guarantee service to the community over a long period of time.

Additionally, it is difficult to estimate the airport revenues from landing fees, parking fees, and counterspace rental. This makes any type of long-range planning difficult.

What is the Board doing to help mitigate the problems that these airports are experiencing?

Mr. MCKINNON. Sir, we don't have the authority on it.

Before I arrived at the Board, they held a series of hearings around the country to get input. One of the problems was that they were having just the opposite effect that you are talking about in that some of the airports were restricting counterspace and facilities to keep new airlines from coming in. There was a great concern that new airlines have the opportunity to come in and have communities cooperate with them.

The series of hearings around the country did prove beneficial, but the CAB can only conduct them. We have no power to do anything about the facts, except to make them available to people.

LABOR PROTECTION PROVISIONS OF ADA

Senator ANDREWS. The labor protection provisions of the Airline Deregulation Act have never been carried out, as I understand it, yet more than 30,000 airline workers have lost their jobs since 1978. What are you doing with regard to issuing guidelines for implementing rules in this regard?

Mr. MCKINNON. We are following the procedures, and I would like to have our legal counsel share with you exactly where we are on that today.

Mr. KIRSTEIN. The Board issued a rule that was made final about 3 or 4 weeks ago to implement the Board's part of the employee protection plan, which is to determine whether deregulation was the major cause of this loss of employment for these people.

Under that plan, a person files an application, and then the Board considers it. That is what we are in the process of doing now, deciding how best to consider these various applications from the different employee groups. You really only need one application from each airline to make a general determination.

GUIDELINES FOR IMPLEMENTING EMPLOYEE PROTECTION PROGRAM

Senator ANDREWS. When do you think these guidelines are going to be done?

Mr. KIRSTEIN. The guidelines are in place. The actual proceeding depends on how you handle the case. Since it is a factual inquiry, presumably, some of the cases are referred to a judge. Others may be done by some kind of paper proceeding where you sort out the facts, and the Board can make a determination. I could not really tell you, since we have never done one, how long it would take to actually do one.

Since the Department of Labor has to get the money from Congress to pay these people anyway, and they have not done that yet, there is probably no critical time pressure on the Board at this point.

Senator ANDREWS. Even though these people are out of work, nothing is really being done to implement the relief that they should be getting under the act.

Mr. KIRSTEIN. I should point out that the 30,000 figure is a little misleading because, in fact, the major airlines in January of this year reported that net employment was only 5,000 less than it was on the date that deregulation was enacted. What happened was, right after deregulation, employment jumped up substantially and now it has dropped back down. But the net level is only 5,000, not including the new entrants who have hired people. So while Braniff has lost a lot, other people have been hiring.

EFFECTS OF DEREGULATION ON AIRLINE JOBS

Senator ANDREWS. That is true, except for the fact that you can't deal with semantics in something like that. If Braniff has 5,000 people who have lost their jobs, and some airline adds 3,000, and another airline loses 2,000, you can't just take the net balance across the board.

Mr. KIRSTEIN. I am not disagreeing with that. I am just saying that when you say that the industry has lost 30,000 jobs, it is not really true. It is just that they have redistributed the losses.

Senator ANDREWS. Yes; but how much then is redistribution? In other words, does the person leaving Braniff go to work for Delta, or does Delta recruit somebody new, which means that the net loss is still close to the 30,000 figure we have. You don't have any figures on that, do you?

Mr. KIRSTEIN. No.

Mr. MCKINNON. One of the first things to think about, Senator, is that it hasn't been proven that those 30,000, or however many people it is, lost their jobs because of deregulation. The economy was a factor in it. I understand, too, they still get unemployment benefits and this is sort of an additional perk to them beyond that.

One of the problems is that the airlines and the labor unions just haven't really gotten together on some of the details.

PROCESSING APPLICATIONS UNDER EMPLOYEE PROTECTION PROGRAM

Senator ANDREWS. I am totally aware of that, Mr. Chairman. The only trouble is that it is a provision of the law. The Congress, right or wrong, passed that law. You have a lot of people in this country figuring that they are going to get some relief under the law. It is like a clock ticking.

The people are mainly blaming the CAB for not implementing the law. You say that it is the Labor Department that has not implemented it. You also say that there isn't any money available even if it is implemented. Unfortunately, in its ultimate wisdom, or lack of it, Congress set up this kind of labor protection, and so far you haven't done anything about it.

Mr. KIRSTEIN. I did not mean to mislead you. The Board is processing applications now that the rule is in effect. We were delayed. OMB held the rule up for a while and it took a while to get started. We are looking at the applications now.

What I said was that I couldn't tell how long it would take to actually process an individual application because we have not done one as yet.

Mr. MCKINNON. We don't want to leave you with the understanding that the CAB hasn't taken any action on it, because we have taken every action that we are lined up to take.

Senator ANDREWS. Why don't you provide a little bit more for the record about what action you have taken, and where you are, and such things.

Mr. MCKINNON. We will be delighted to.

[The information follows:]

Section 43 of the Airline Deregulation Act—ADA—the employee protection program applies to protected employees of airlines that had been certificated as of the date of enactment of the ADA, October 24, 1978. A protected employee is one who, as of the date of enactment of the ADA, had been employed by one carrier since October 24, 1974. The program provides for Federal assistance payments to protected employees who have been deprived of employment or have had their compensation reduced because the carrier employer has suffered a qualifying dislocation.

Our final procedural rules implementing the employee protection program were recently approved by the Office of Management and Budget. They were issued on March 3 and became effective on April 3. The next step is to begin processing the applications for determination of qualifying dislocation that we have received on behalf of furloughed employees of 13 carriers.

As you are aware, the responsibilities of the CAB under the employee protection program are divided into two phases. We must first determine whether each carrier under consideration has experienced either a bankruptcy or a major contraction, which is defined as a 7½-percent reduction in the total number of the carrier's full-time employees within a 12-month period.

For each bankruptcy or for each major contraction that we find, we must decide whether its major cause was the Airline Deregulation Act. Because the downturn in the economy, rising fuel costs, and the PATCO walkout have all occurred during the 3 years since passage of the Airline Deregulation Act, our undertaking to determine whether deregulation was the major cause of a bankruptcy or a particular reduction in employment will not be an easy one. Therefore, we will expect persons filing answers to our major contraction findings to assist us by stating whether the major cause of the major contraction was the change in regulatory structure provided by the ADA, and by including any information and arguments that would support this conclusion.

If we do find that the Airline Deregulation Act was the major cause of a bankruptcy or major contraction, then the carrier will have experienced a qualifying dislocation. The Department of Labor will be notified, and it will determine which protected employees are eligible for assistance, including relocation assistance, and the amounts to which they are entitled.

In addition to the compensation and relocation assistance benefits, the employee protection program also provides first right-of-hire protection for certain furloughed employees. However, this duty to hire protected employees, wghich is found in section 43(d) of the employee protection program, does not require any findings by the Civil Aeronautics Board.

All Senator and Representatives who have expressed an interest in the employee protection program will recieve a copy of our order making major contraction findings, asa well as all subsequent orders regarding qualifying dislocation determinations.

IMPACT OF TERMINATED 406 SUBSIDY PAYMENTS

Senator ANDREWS. Last year's appropriation bill called for the elimination of section 406(c) subsidy payments for cities enplaning more than 80 passengers to be effected 95 days after the bill was enacted. The 95-day period recently ended, and I assume that the Board has eliminated these payments. What has been the impact of this?

Mr. McKINNON. The payments stopped today.

Mr. HOKANSON. Today is the effective date that the Board no longer makes those payments.

Senator ANDREWS. How much will that save us?

Mr. McKINNON. It will take our payments to air carrier requests in this budget down from $94.3 to $48.4 million.

406 CARRIERS SWITCHING TO 419 SUBSIDY

Senator ANDREWS. Under the provision providing for essential services to small cities, air carriers that were formerly receiving section 406 subsidies have been switched over to section 419. These could be different airlines because the 419 subsidy goes to the city, rather than the airline.

How many airlines are you currently subsidizing that fit into this category? Are any of them switching from 406 to 419?

Mr. HOKANSON. The way the appropriation language reads now, after April 1, the 406 carrier forced to continue service continues to get a subsidy equivalent to what they would have gotten under 406, but it is now accounted for as 419 money. The appropriating legislation is specific on this.

Senator ANDREWS. That is for the community that doesn't have other air service?

Mr. HOKANSON. That is correct. It has to be the last air carrier serving the community.

MONTHLY SUBSIDY FOR 406 CARRIERS UNDER SECTION 419

Senator ANDREWS. Would you provide for the record how much 419 money will be or is being required to pay the 406 subsidies?

Mr. HOKANSON. Yes, sir.

Senator ANDREWS. Do you have an off-the-top-of-the-head percentage figure now?

Mr. HOKANSON. During the April to September period, we estimate a maximum of $7 to $8 million.

Senator ANDREWS. Please provide the specific locations that are going to receive these funds plus the specific carriers for the record.

[The information follows:]

The following table lists the points at which 406 carriers have filed notice of suspension and which will receive subsidy under section 419 of the act for some period of time after April 1, 1982. The subsidy estimates included in this table are monthly amounts. These subsidies will be paid for varying amounts of time ranging from 1 to 6 months depending on when replacement service is in place.

MONTHLY SUBSIDY FOR 406 CARRIERS AT POINTS WHERE SUSPENSION NOTICES HAVE BEEN FILED AND REPLACEMENT SERVICE WAS NOT IN PLACE AS OF APRIL 1, 1982

Carrier/Point:	*Monthly subsidy under section 419*
Ozark:	
Burlington, IA	$15,540
Quincy/Hannibal, MO	114,658
Cape Gerandeau, MO	51,738
Mason City, IA	148,474
Marion/Herrin, IL	69,144
Fort Dodge, IA	83,036
Total	482,590
Republic:	
Thief River Falls, MN	40,400
Norfolk, NE	46,927
Yankton, SD	46,343
Iron Mountain, MI	73,648
Ironwood, MI	48,264
Sault Ste. Marie, MI	17,244
Total	272,826

FUTURE TRENDS UNDER SECTION 419 SUBSIDY

Senator ANDREWS. One further question on 419 and 406. Your budget justification states that you require about $28 million in fiscal year 1982 for section 419 subsidies, and this increases to $48.4 million in fiscal year 1983. What is your view of the future trends and prospects for funding requirements for section 419; is it going to continue to increase?

Mr. MCKINNON. Let's have John, our expert, give you a little more insight on that, Senator.

Mr. HOKANSON. My guess is that it will probably stabilize around some level. In our view there is a finite number of points that will require subsidy of a relatively long-term nature under 419. We think it is something like 100 to 120 points that will require some subsidy.

When things turn better, we expect that some of those will develop to the point where they will not need any subsidy. But there is a core of, I guess, 80 to 100 points that are likely to require subsidy clear to the end of the program. My guess is that you are not likely to see major swings either up or down from this level.

Senator ANDREWS. Early in fiscal year 1983 the bumping provisions of section 419 take effect, and a carrier that has been receiving a subsidy for providing essential air service to a community can be replaced by another air carrier providing improved service without a subsidy. How many air carriers do you expect will be bumped under this provision?

Mr. HOKANSON. I think that one of the difficulties of the bumping provisions is how do you demonstrate what is clearly better service. I don't know how we are going to be able to do that.

Senator ANDREWS. If another air carrier offers service in that community, that would preclude the offer of 419 to the first air carrier, wouldn't it?

Mr. COLEMAN. I think we expected that some of the major savings that were contemplated under the bumping provision would have occurred by smaller air carriers replacing air carriers formerly being subsidized under 406.

The other things that have happened in the interim, principally the appropriation bill which eliminated 406 subsidies to points generating more than 80 passengers a day, the winding down of section 406 subsidies generally, and much of the transition into smaller aircraft operations has already taken place. Therefore, the expected bumping is much less in magnitude, I think, than it might otherwise have been.

Mr. MCKINNON. I think, Mr. Chairman, we have another problem and that is the economy. The commuter industry is having a very difficult time at present because with the economy being down there are fewer boardings, and they still have some expensive costs. So you don't quite have, I would imagine, as extreme competition as you could have under a healthy economy. So it is hard to project exactly what you are going to pin on the economy.

CRITERIA FOR REVISING SUBSIDY LEVELS

Senator ANDREWS. The Board, I understand, has not established procedures for commodity air carriers that are receiving section 419 subsidies to assure that the subsidy paid is commensurate with the services provided.

What sort of procedures does the Board have for revising the subsidy levels when it has found that the amount of subsidy is too low, and the air carriers are sustaining great losses by providing essential air services to a small community?

Does the Board have some criteria established to determine whether an air carrier is granted emergency relief, or do you do this on an ad hoc case-by-case basis?

Mr. HOKANSON. To date, we have done so on an ad hoc basis. I might say, however, that this is a very difficult problem, one that we recognize requires very serious thought. We are in the process of developing for ourselves some firmer policy guidelines, so that soon we will have clearer guidance in future cases. There will be a report sent to the Board in the very near future on this subject.

Senator ANDREWS. And you are going to have some type of criteria established?

Mr. HOKANSON. Right now, I would say that we are at the brainstorm stage.

Senator ANDREWS. What does the Board do in the meantime while the commuter airlines are sustaining these great losses?

Mr. HOKANSON. Senator, in cases where this has arisen, which it has two or three times in the last few weeks, we have recommended that the Board take actions to alleviate these things on a case-by-case basis according to the circumstances that exist for a particular air carrier. I guess, until we have established our firmer guidelines, we will continue to do that.

Senator ANDREWS. But you are sure that you are going to be able to have an accurate judgment to eliminate the smoke, when an air carrier says that they are losing $100,000 a month?

Mr. HOKANSON. We do our best.

Mr. MCKINNON. Senator, when somebody comes in and wants to provide essential air service, they make a pitch to us about how much subsidy will be required. We also try to have our staff analyze what it is going to cost, to see if they are just trying to get the deal.

Senator ANDREWS. Once they get the deal, then they come back for additional funds because they are losing all this money. You ought to have some kind of criteria established.

Mr. MCKINNON. Sometimes when there is competition for the selection, we try to evaluate that, and sometimes the lowest bidder does not get the award because, in our judgment, he does not have his costs lined up properly.

LOCATING REPLACEMENT CARRIERS UNDER ESSENTIAL AIR SERVICE

Senator ANDREWS. I understand that when the Board determines that essential air service to a community could not be maintained without a subsidy, the Board orders the incumbent carrier to hold in until a replacement carrier is found.

Would you briefly describe the process by which the Board locates a suitable replacement carrier, how long this usually takes, and what role the local community plays in these cases?

Mr. COLEMAN. The range of time required for securing replacement services is anywhere from very quickly, as little as 1 month, depending on how the carriers can work out the logistics themselves, up to perhaps 6 months. We have people in the field who are in constant contact with the commuter industry, and make them aware of opportunities that are coming up where carrier replacements are going to have to be secured.

Our process, if subsidy is going to be required, is in part I which is simply an extension of the law which requires that before we authorize subsidy for a carrier under 419, we have to give other interested carriers an opportunity to propose service. So there is a formal process that must be adhered to.

We invite proposals. We have people in the field who try to encourage interest in submitting proposals, and the proposals come in. We have a rate negotiating process. We invite comments from the communities. Then the staff sends a recommendation to the Board weighing all the factors in coming up with a selection. The selection, then, is normally for a 2-year period at a specified rate. The total process takes about 5 or 6 months.

Mr. GOLDEN. Senator, if I may. The Board has a series of field offices throughout the country, and people in those field offices are familiar with the commuter carriers in their region that may have equipment available and have the desire to provide services.

So whenever we discover that there is the possibility of a loss of service, our field people immediately start contacting carriers in the region to explore the possibility of their coming in to provide service on an interim basis or a permanent basis, encouraging them to make proposals to the Board to provide the service. This has worked pretty well in the past to get carriers lined up after we have had a problem with a carrier leaving one of those markets.

CHANGES IN CONSUMER PROTECTION RULES

Senator ANDREWS. The Board is proposing to ease some consumer protection rules, particularly in the area of compensation to passengers who have been bumped. Other recent actions by the Board have allowed airlines not to provide nonsmoking section seats to passengers who don't arrive early enough at the gate and to impose penalties to cancel, refund, or reissue cutrate tickets.

Why has the Board taken these actions, and are they going to further harm a traveling public that has already been confused, rerouted, rescheduled, and repriced due to the effects of deregulation?

Mr. MCKINNON. No, sir.

Senator ANDREWS. That may be your answer, but not to this question.

Mr. MCKINNON. We have taken these actions as a review because if the CAB is going to sunset, we wanted to review the policy so that when we leave it to DOT, or to whomever the functions pass, there will be some kind of guidelines, sort of our last word. We are reviewing those right now.

We did take action, as you are aware, on the smoking situation and we have established a policy that we think is fair and equitable to everybody concerned. We are now reviewing denied boarding, we are reviewing baggage, and we are reviewing charter rules. So we might leave behind some type of opinion on how those should be handled.

As yet we have reached no decision on those. They are going through comments and reviews. We are getting all the input possible from everybody in the industry, as well as the public, on what they think we ought to do.

IMPACT OF NEW REGULATION ON DOMESTIC TARIFFS

Senator ANDREWS. I understand the latest phase of the Board's ongoing competitive marketing investigation has been looking at the method of retail price competition, particularly the relationship between airlines and travel agencies.

As a result of hearings, the Board issued a regulation relaxing the domestic tariff requirements to permit carriers and travel agents to offer prices below the fare level filed with the Board. What will be the expected impact of this regulation?

Mr. McKinnon. That is hard to say. I feel fortunate to be here today because I talked to the travel agents last week, at one of their conventions, and I am still alive.

They feel that the CAB has a preconceived idea on this. I think the CAB is just making an effort to review all the marketing philosophies involving the airlines and ticket sales, to find out what the facts are, to serve the system the best.

I come to it with no preconceived ideas, and the administrative law judge who has been hearing this case for about 3 years, with 40,000 pages of transcript and exhibits, will provide his views of the situation to the Board by June 1.

At that time, the Board members will begin studying it, and we will make some decision on the situation later in the year. But at this point, I don't think anybody has preconceived ideas or can provide you an opinion on the competitive marketing case.

Senator Andrews. You are going to float it and see how it works?

Mr. McKinnon. No, sir, I am not saying that we are going to make any changes, or that we will not make any changes. I am saying that we have to get the facts. The CAB has been studying the situation, and we are going to get the facts. After we get the facts, we will evaluate it.

We don't handle that directly with the travel agents. Our authority comes from granting an immunity to ATA who sets up the rules under which the travel agents operate.

PROVISIONS OF MONTREAL PROTOCOLS

Senator Andrews. Can you describe for the committee what the Montreal protocol is and, assuming that the Senate ratifies it, what the role of the CAB would be under it?

Mr. McKinnon. I think maybe to give you the legal technicalities on that, I will ask our General Counsel to answer.

Senator Andrews. It is a good question when you have to go into a huddle like that. [General laughter.]

Mr. Kirstein. I will take a crack at that.

As I understand it, the Senate ratified what is called the Guatemala protocol, which is an amendment to the Montreal agreement. Basically, the Montreal agreement sets liability limits for people who are injured in international air transportation accidents. Under this protocol that was signed, individual governments can impose additional——

Senator Andrews. Actually, it is the Guatemala protocol to the Montreal agreement?

Mr. Kirstein. That is right.

Under the protocol, each country can impose supplemental insurance. The question we have to look at is whether we should impose any supplemental insurance requirement which would require passengers to pay a ticket tax on any international flight. The staff is right now in the process of getting the document together for the Board to institute a proceeding to review that issue.

As I understand it, we are supposed to report back to the Congress on our recommendation on the supplemental plan.

Senator ANDREWS. What role would the CAB have if this protocol is ratified?

Mr. KIRSTEIN. If there is no supplemental plan, the only role we have is one of enforcement, to make sure that all the airlines sign on to the modified agreement. If there is a supplemental plan, that plan would have to be approved by the Board because of the potential anticompetitive questions for which you would want to consider antitrust immunity under the Board's authority.

It may be that there aren't any antitrust problems, but whenever you require passengers and all the airlines to agree on a certain system of insurance, you may have some competitive questions there.

SUPPLEMENTAL INSURANCE FOR INTERNATIONAL TRAVELERS

Senator ANDREWS. In international agreements such as this, what is the CAB's role?

Mr. KAHAN. Senator, normally the Board's involvement with international agreements begins when they are negotiated. In conjunction with the Departments of Transportation and State, we participate in formulating those arrangements and make determinations as to whether we should enter them.

Our primary responsibility after the agreements have gone into effect is essentially to abide by them. Any international agreement that the United States enters into is binding on the Board under section 1102 of the act, and we frequently have to determine what the agreement means, so that we can know what our duties are under that agreement.

In the case of the Montreal protocol that we are discussing here, there is a very peculiar question that arises which, perhaps because nobody else is around who has more expertise on the subject, has been plopped into the lap of the Board. That is the question of how much supplemental insurance should passengers be required to have and how much they should pay for it.

The sum total of the agreements before the Senate right now for final ratification will be to limit the extent to which passengers or their estates would be able to recover from carriers in the event of accidents. It is our understanding that the Senate does not want to see that kind of limitation or liability go into effect unless there is some sort of equitable insurance plan, so that passengers and their estates will be fairly treated in the event of accidents.

That leaves the question of how much supplemental insurance should be required and how much the passengers should be required to pay. This is a mandatory exaction and, therefore, I take it that we have the responsibility to make an initial recommendation on it.

Senator ANDREWS. After you have made the recommendation, the Senate acts, and it is written into the agreements. Do you have a policing action or an auditing action afterward to make sure that these various airlines are, in fact, living up to those agreements?

Mr. KIRSTEIN. We are responsible to make sure that the U.S. carriers become signatories to the Montreal agreement. In fact, we are going through a process now of updating to make sure that all the new carriers that have been licensed in the last few years have signed the Montreal agreement. I personally signed about 125 letters to airline presidents in the last 2 months so I know about this.

Once they have signed on, it is self-executing. If there is an accident or an injury, the insurance carriers and the airlines handle that themselves. It is not done through a Board proceeding.

RESPONSIBILITIES UNDER INTERNATIONAL AGREEMENTS

Senator ANDREWS. What responsibility do you have in making sure that the foreign flag carriers have signed, if they carry American citizens, and how does the American citizen know that this foreign flag carrier he gets on is a signatory to this agreement?

Mr. KIRSTEIN. We put in the foreign carrier permit the requirement that to fly to the United States, they must also comply with the requirements of the agreement. If we find out that they don't, of course, that would be grounds for the Board to lift their permit or impose other penalties.

Senator ANDREWS. Please supply any other information for the record on the Montreal agreement, because it is undoubtedly going to be the source of some questions in the weeks yet to come. We would appreciate that.

[The information follows:]

The Montreal Protocols to the Warsaw Convention.

On November 17, 1981, the Senate Foreign Relations Committee adopted a proposed Resolution (see, Executive Report No. 97-45, December 16, 1981) to give Senate advice and consent to Montreal Protocols 3 and 4 amending the Warsaw Convention (49 Stat. 3000). The Resolution included provisos that the President should not deposit the U.S. instruments of ratification until he had determined that a satisfactory supplemental compensation plan, reviewed and approved by the Civil Aeronautics Board, would be in operation; that the President should give notice of denunciation of the Protocols after their entry into force, if he later determines that a satisfactory supplemental compensation plan is not in operation for the United States; and that the U.S. Government should continue to actively seek to negotiate higher liability limits than provided by the Protocols. The proposed Resolution has not yet been voted on the floor of the Senate.

The United States adhered to the Warsaw Convention in 1934. The Convention provides various rules governing the liability of air carriers for death, injury or delay of passengers, and for loss, damage or delay of cargo and baggage. It also contains several provisions governing the ticket, air waybill and baggage check documentation used by airlines. The most controversial aspect of the Convention is its low limit of liability for death or injury to passengers. Based on the 1974 official value of gold that limit was $10,000.

For air travel involving the United States, the currently effective passenger liability limit under the Warsaw Convention is $75,000. This results from the so-called Montreal Agreement of 1966 (not to be confused with the 1975 Montreal Protocols). That Agreement was entered into by virtually all carriers operating to and from the United States as an inducement to the United States to withdraw its notice of denunciation of the Convention which had been filed in 1965 due to dissatisfaction with the low passenger liability limit. In addition to waiving the passenger liability limit up to $75,000, the Agreement waives the carriers' defense under the Convention of proof of freedom from negligence, in effect creating a regime of strict liability.

The 1975 Montreal Protocols, now pending before the Senate, would replace the current Warsaw Convention - Montreal Agreement liability provisions with a new regime, through amendment of the Warsaw Convention. The new regime would come into effect only following ratification of the Protocols by the United States and 29 other countries. The most significant provision of the Protocols is to raise the Convention's passenger liability limit to a higher unbreakable level of 100,000 International Monetary Fund Special Drawing Rights (approximately $111,000 at the current valuation). However, it is contemplated that the effective level of passenger recovery in the United States would be increased to approximately $311,000 or more through a provision in Protocol No. 3 which permits any country to adopt a domestic plan to supplement the maximum recovery from the airline permitted under the Convention ($111,000).

In 1975, a proposed Supplemental Compensation Plan was submitted to the Board for approval by the Air Transport

Association on behalf of U.S. and foreign carriers. That plan provided for possible passenger recoveries (based on proven damages) of $200,000 and unlimited medical expenses, in addition to the $111,000 recovery from the airlines under the Protocol -- a total of approximately $311,000. The additional recovery would come from a form of insurance pool funded by an automatically adjusted surcharge (initially $2.00) on international airline tickets sold in the United States. Provisions were included to facilitate the monitoring or adjustment of the plan by the Civil Aeronautics Board and other interested agencies (the Departments of Transportation, State and Commerce). As a condition to its approval, the Board would retain authority to revise the level of recovery and related surcharge as experience under the plan would indicate. In addition, the plan contemplates that the Board would adopt rules to require that all carriers (U.S. and foreign) participate in the supplemental compensation plan agreement. The supplemental compensation plan would be administered by the Prudential Insurance Company of America with no cost to the U.S. Government, except the costs of monitoring the operation of the plan. The Board's role (or its successor agency), after initial approval of this, or any modified plan that may be approved by the Board, would only be to consider proposed modifications to the plan, or the ceiling on recoveries under the plan, and to enforce its rules requiring participation by all carriers.

The Civil Aeronautics Board approved the Supplemental Compensation Plan in 1977, but petitions for reconsideration and for review of the Board's Order by the Court of Appeals were filed by the Aviation Consumer Action Project and the Association of Trial Lawyers of America, respectively. These petitions are still pending. If the Senate gives its advice and consent for ratification of the Protocols, the Board would reopen the proceeding to reconsider the Supplemental Compensation Plan in light of current economic data and other objections that may be raised. Attached is the Board's Statement submitted to the Senate Committee on Foreign Relations, on October 15, 1981, which more fully describes the Supplemental Compensation Plan and the proceeding pending before the Board for its approval.

In addition to its provisions on passenger liability recoveries, the Montreal Protocols contain several provisions which modernize the rules relating to liability for baggage and cargo, and ticket, baggage check and air waybill documentation. These provisions are particularly important in removing existing impediments to the utilization of electronic data transmission by airlines, and accordingly improving the efficiency of airline operations.

STATEMENT OF THE
CIVIL AERONAUTICS BOARD
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

Montreal Protocol No. 3 would establish an unbreakable passenger liability limit for international carriers at 100,000 Special Drawing Rights, or approximately $116,000 based on the International Monetary Fund's current valuation. The Protocol would close the loopholes in the Warsaw Convention that often allow recoveries far in excess of the current limit or the new $116,000, and would limit carrier liability regardless of the degree of fault to this inadequate level per passenger. Accordingly, in 1975, the Air Transport Association filed a Supplemental Compensation Plan with the Board, which would increase potential passenger recoveries under Montreal Protocol No. 3. We are pleased to have this opportunity to bring this Committee up to date on the present status of that proceeding.

The Supplemental Compensation Plan constitutes an agreement between most carriers serving the United States, and between those carriers and the Prudential Insurance Company of America, as contractor, to establish a fund for the purpose of supplementing the limits of international carrier liability to passengers for death and injuries which would be effective under the Warsaw Convention and the proposed Montreal Protocol No. 3. As an intercarrier agreement, the Plan has been filed with the Board for approval under section 412 of the Federal Aviation Act.

The Supplemental Compensation Plan, as proposed in 1975, would increase the possible recovery for claimants on behalf of passengers by $200,000 based on proven damages, making the total potential recovery $316,000, funded from a non-airline source. In addition, medical expenses would be covered by the Plan without any limitation on recovery. The Plan was to be funded by a mandatory surcharge, initially $2, on each international ticket sold for international air transportation originating in the United States, whether one way or round trip. United States domiciliaries or permanent residents would be covered by the Plan's protection whether or not they had paid a surcharge for the particular journey. In other words, U.S. residents would be covered even on a journey between two foreign points. Other passengers would be covered only if the surcharge was, or should have been, collected for the particular journey on which the accident occurred.

The Board approved the Supplemental Compensation Plan by Order 77-7-85, on July 20, 1977, just prior to the July 26, 1977 hearings of this Committee. In that Order the Board declined to pass upon the public interest of the Warsaw Convention, or Montreal Protocol No. 3. The latter specifically permits a State to adopt a Supplemental Compensation Plan, like that now pending before the Board, subject to certain prescribed conditions (Article 35A). The Board recognized that in no event would the Supplemental Compensation Plan become effective until the entry into force of Montreal Protocol No. 3. Therefore, the Board considered the question of the public interest of the Warsaw Convention and the Protocols as an issue which should be resolved by this Committee, and which was not properly an issue before it in the Supplemental Compensation Plan Proceeding.

On August 9, 1977, following the previous hearings before this Committee, the Aviation Consumer Action Project (ACAP) filed a Petition for Reconsideration of the Board's approval order. ACAP argued that the record was inadequate, that a hearing should be held, and that various questions, including the mandating of any passenger charge under the compensation plan, had not been adequately considered by the Board. Sometime later the Association of Trial Lawyers of America (ATLA) filed a Petition supporting the ACAP Petition and requesting reopening of the record and an evidentiary hearing. In addition, ATLA filed a Petition for Review of the Board's approval order in the United States Court of Appeals for the District of Columbia Circuit. The court proceedings have been stayed pending Board action on the reconsideration petitions. The Board has not acted on the reconsideration petitions since it did not appear that there was any immediate prospect for ratification of the Protocols by this Committee. Therefore, although the Supplemental Compensation proceeding remains pending before the Board, no action has been taken in four years.

In the time that has elapsed since the Board's 1977 approval order, there have been many changes in the industry and the economy which might have a direct bearing on the Plan and its operation. Enactment of the Airline Deregulation Act of 1978, Public Law 95-504, October 24, 1978, and the International Air Transportation Competition Act of 1979, Public Law 96-192, February 15, 1980, both of which were aimed at removing governmental intervention from aviation as much as possible, creates a totally different atmosphere than existed in 1977. On the specific features of the plan, the Board, for example, would be concerned that the level of recoveries under the Compensation Plan be sufficient to rectify the inadequate limits on recoveries under the Protocol. While we do not currently have information as to the effects on recoveries of the high inflation rates that have plagued the economy for several years, the value of a recovery under the Plan may be significantly less for claimants now than in 1977, and may not, therefore, be adequate. In addition, the period has been marked by very high interest rates, a factor which might affect both the surcharge-coverage levels of the Plan, and the value of a possibly more prompt recovery under the Plan. Another factor which could affect the costs of the Plan's coverage is the safety experience of the international air carriers, which has improved significantly. We understand the State Department believes that it would be desirable to review the Supplemental Compensation Plan to ensure that it adequately protects U.S. claimants.

In view of the pending proceeding before the Board, it would be improper for the Board to express any view, even tentative, on its ultimate conclusions in reconsideration of the Supplemental Plan. It does appear, however, that the Board's reconsideration of its 1977 order, in accordance with the pending petitions, would necessarily require a reopening of the record and supplementation and reexamination of the economic data relevant to the operation of the Plan.

If the Senate decides to give its advice and consent to ratification of the Protocols, either subject to implementation of the Supplemental Compensation Plan, or independently of the Plan, it is the Board's tentative view that that would be the proper time to reopen the record in the pending proceeding and reconsider the Supplemental Compensation Plan in light of current economic data and any other objections that may be raised. The Board would not consider that it was obligated to approve any particular Supplemental Compensation Plan, unless it found the Plan to be in the public interest under the Federal Aviation Act.

Again, we wish to express our appreciation for this opportunity to bring you up to date on the status of the Supplemental Compensation Plan proceeding.

SUBMITTED QUESTIONS

Senator ANDREWS. Mr. Chairman, we appreciate your appearance here today. We will provide you with questions for the record from myself and the other members of the committee.

Mr. MCKINNON. We appreciate the opportunity to be here, sir.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

INTERNATIONAL NEGOTIATING TEAMS

Question. The current international agreement negotiating teams of the United States include representatives from the Departments of State and Transportation and representatives from the Board. How well do you think this arrangement is working? How often are aviation interests not pursued as far as they could be by the State Department in the interest of other national trade priorities?

Answer. The current arrangement serves U.S. interest very well. Because of the inputs of three agencies with different perspectives, the U.S. positions for negotiations reflect a balanced view of U.S. interests. The Department of State has effectively pursued U.S. aviation interests and has not let other national trade priorities interfere with U.S. aviation goals.

INTERNATIONAL TRAFFIC AND REVENUES

Question: Provide for the record an update of the information supplied for last Year's hearing on total United States international passenger traffic, including 1981, for the Atlantic, North Pacific, Oceania, and other areas.

Answer: See attached table.

Total United States International Passenger Traffic
By Flag Of Carrier, Market Share, and Citizen/Alien Participation
Calendar Years 1976 - 1981
(In Thousands)

	1976	1977	1978	1979	1980	1981
Atlantic						
No. of Passengers	10,935	12,080	13,758	14,877	15,313	15,560
U.S. Flag	4,888	5,484	6,040	6,576	6,447	6,380
Foreign Flag	6,047	6,596	7,718	8,301	8,866	9,180
Flag Share (%)U.S./Foreign	44.7/55.3	45.4/54.6	43.9/56.1	44.2/55.8	42.1/57.9	41.0/59.0
% Citizens/Aliens	60.8/39.2	62.4/37.6	58.4/41.6	52.7/47.3	48.2/51.8	46.9/53.1
Middle America						
No. of Passengers	4,211	4,203	5,247	6,343	6,922	7,347
U.S. Flag	2,354	2,320	2,933	3,635	3,731	4,092
Foreign Flag	1,857	1,883	2,314	2,708	3,191	3,255
Flag Share (%)U.S./Foreign	55.9/44.1	55.2/44.8	55.9/44.1	57.3/42.7	53.9/46.1	55.7/44.3
% Citizens/Aliens	56.8/43.2	61.4/38.6	60.9/39.1	58.7/41.3	54.8/45.2	51.0/49.0
Caribbean						
No. of Passengers	5,263	5,377	6,077	6,846	6,856	6,859
U.S. Flag	3,389	3,592	4,157	4,648	4,737	4,794
Foreign Flag	1,874	1,785	1,920	2,198	2,119	2,065
Flag Share (%)U.S./Foreign	64.4/35.6	66.8/33.2	68.4/31.6	67.9/32.1	69.1/30.9	69.9/30.1
% Citizens/Aliens	71.4/28.6	70.5/29.5	70.3/29.7	67.9/32.1	66.5/33.5	64.3/35.7
Latin America						
No. of Passengers	1,764	1,984	2,345	2,820	3,343	3,449
U.S. Flag	688	817	1,032	1,266	1,488	1,514
Foreign Flag	1,076	1,167	1,313	1,554	1,855	1,935
Flag Share (%)U.S./Foreign	39.0/61.0	41.2/58.8	44.0/56.0	44.9/55.1	44.5/55.5	43.9/56.1
% Citizens/Aliens	38.7/61.3	38.1/61.9	34.6/65.4	30.3/69.7	26.5/73.5	25.4/74.6

	1976	1977	1978	1979	1980	1981
Far East						
No. of Passengers	3,214	3,283	3,641	4,423	4,925	5,286
U.S. Flag	1,411	1,435	1,504	1,955	2,039	2,062
Foreign Flag	1,803	1,848	2,137	2,468	2,886	3,224
Flag Share (%)U.S./Foreign	43.9/56.1	43.7/56.3	41.3/58.7	44.2/55.8	41.4/58.6	39.0/61.0
% Citizens/Aliens	30.3/69.7	31.5/68.5	29.9/70.1	27.2/72.8	27.1/72.9	27.8/72.2
Oceania						
No. of Passengers	834	877	970	1,149	1,220	1,271
U.S. Flag	407	437	453	583	588	618
Foreign Flag	427	440	517	566	632	653
Flag Share (%)U.S./Foreign	48.8/51.2	49.8/50.2	46.7/53.3	50.7/49.3	48.2/51.8	48.6/51.4
% Citizens/Aliens	40.1/59.9	40.2/59.8	42.1/57.9	39.6/60.4	39.2/60.8	40.8/59.2
Middle East						
No. of Passengers	329	432	533	635	611	670
U.S. Flag	53	96	116	168	211	234
Foreign Flag	276	336	417	467	400	436
Flag Share (%)U.S./Foreign	16.0/84.0	22.3/77.7	21.8/78.2	26.5/73.5	34.5/65.5	34.9/65.1
% Citizens/Aliens	70.1/29.9	66.5/33.5	58.9/41.1	56.4/43.6	59.3/40.7	56.3/43.7
Africa						
No. of Passengers	186	219	232	254	289	310
U.S. Flag	126	142	135	121	123	121
Foreign Flag	60	77	97	133	166	101
Flag Share (%)U.S./Foreign	67.8/32.2	64.7/35.3	58.1/41.9	47.8/52.2	42.6/57.4	39.2/60.8
% Citizens/Aliens	71.5/28.5	65.5/34.5	61.6/38.4	56.5/43.5	49.2/50.8	46.5/53.5
Total						
No. of Passengers	26,736	28,455	32,803	37,347	39,479	40,752
U.S. Flag	13,315	14,341	16,369	18,935	19,345	19,806
Foreign Flag	13,421	14,114	16,434	18,412	20,134	20,946
Flag Share (%)U.S./Foreign	49.8/50.2	50.4/49.6	49.9/50.1	50.7/49.3	49.0/51.0	48.6/51.4
% Citizens/Aliens	56.6/43.4	57.9/42.1	55.7/44.3	51.5/48.5	48.0/52.0	46.2/53.8

NOTE: Includes scheduled and charter commercial air travel. SOURCE: Immigration and Naturalization Service
Excludes U.S.-Canada traffic.

Question: Please show the financial results for each major U.S. international airline by operating entity for the year ending December 31, 1981 and explain these results?

Answer: The operating and net results for the 12 months ended December 31, 1981 for the international entities of the U.S. majors based on preliminary data reported to the Board are:

Carrier	Operating Profit or (Loss) ($ Millions)			
	Total International	Atlantic	Latin	Pacific
American	(2.9)	-	(2.9)	-
Braniff	(20.0)	(10.2)	(9.8)	-
Continental	(12.4)	-	(6.5)	(5.9)
Delta	1.2	0.3	0.9	-
Eastern	(20.6)	-	(20.6)	-
Northwest	(1.3)	(19.5)	-	18.2
Pan American	(141.2)	(116.5)	32.9	(57.6)
Trans World	58.7	58.7	-	-
Western	(22.0)	(17.5)	(4.5)	-
Total	(160.5)	(104.7)	(10.5)	(45.3)
	Net Income or (Loss) ($ Millions)			
American	(5.0)	-	(5.0)	-
Braniff	(37.2)	(16.9)	(20.3)	-
Continental	(19.3)	-	(7.6)	(11.7)
Delta	2.6	1.6	1.0	-
Eastern	(22.7)	-	(22.7)	-
Northwest	(0.8)	(9.5)	-	8.7
Pan American	(105.9)	(78.1)	41.3	(69.1)
Trans World	61.4	61.4	-	-
Western	(18.5)	(12.5)	(6.0)	-
Total	(145.4)	(54.0)	(19.3)	(72.1)

While the total international operations of the majors experienced both an operating and net loss for 1981, the losses represented reductions from the greater losses of 1980. This improvement is evident in the reduction in the negative spread between the actual passenger load factor and the operating breakeven load factor.

	International Operations, Majors	
	1981	1980
Actual passenger load factor (percent)	63.4	62.7
Operating Breakeven load factor (percent)	66.9	66.7
Difference, Actual — Breakeven	(3.5)	(4.0)

While the operating breakeven increased, the actual load factor increased even more producing a reduction in the negative spread. The poor financial results follow, not from the actual load factor level which was a good 63.4 percent, but from the even higher operating breakeven load factor. Essentially breakeven load factor is determined by the relationship between unit revenues or yield and unit costs. The relatively high breakeven load factor would indicate that revenue yields are too low for the present cost structure in place.

Question: What has been the recent history of U.S. international air carrier profits and losses in the Atlantic, Pacific and Latin American over the past five years?

Answer: The operating and net results for the international operations of the U.S. majors by entity for the past five years are:

Calendar Year	Operating Profit or (Loss) ($ Millions)			
	Total International	Atlantic	Latin	Pacific
1977	222.0	111.3	40.3	70.4
1978	324.2	77.7	119.9	126.6
1979	86.4	(16.2)	43.8	58.8
1980	(195.1)	(116.2)	(15.3)	(63.6)
1981*	(160.5)	(104.7)	(10.5)	(45.3)
	Net Income or (Loss) ($ Millions)			
1977	170.2	93.5	18.4	58.3
1978	301.5	93.5	92.2	115.8
1979	97.5	3.6	29.3	64.6
1980	(230.8)	(127.9)	(34.0)	(68.9)
1981*	(145.4)	(54.0)	(19.3)	(72.1)

* Based on preliminary data.

UPCOMING NEGOTIATIONS

Question. What are the significant international negotiations, operating authority, and pricing cases anticipated in fiscal 1983 and the remainder of fiscal 1982?

Answer. During the remainder of fiscal year 1982 there will be significant negotiations with Brazil, Canada, China, Germany, Israel, Peru, Philippines, the Scandinavian countries, Thailand and the United Kingdom. There is also the possibility of resumption of talks with Japan, if Japan shows us that it is willing to enter meaningful negotiations. In fiscal year 1983 we expect that there will be major negotiations with Argentina, Australia, Canada, China, France, Italy, Mexico, New Zealand, Singapore, United Kingdom and Yugoslavia.

We hope that the ongoing negotiations with the European Civil Aviation Conference (ECAC) will resolve the majority of the pricing problems with European countries. However, it is anticpated that not all the European countries will be party to any ECAC agreement and consequently that there may well be fare problems with a number of those countries. Problems also may arise with the Philippines and some of the South American countries. Fare issues will continue to be included in the negotiations of new bilateral agreements.

The Board anticipates a number of significant operating authority cases in fiscal 1983 and the remainder of fiscal 1982. Of prime importance is the Braniff-Pan American Interim Joint Operating and Service Agreement, a proceeding for approval of an intercarrier agreement under Section 412 of the Federal Aviation Act. The Agreement provides for the suspension of Braniff's South American Service (except for Venezuela) for a period of four years, and for substitute service by Pan American during this period. The carriers have asked the Board to grant Pan American operating authority to the extent necessary to enable it to provide substitute service for Braniff. In response to the Agreement, the Board has received numerous requests from other carriers for authority to serve South American routes covered by the Agreement. The Board's staff already has begun processing this case.

The Board has instituted a number of proceedings to consider competing applications for authority to serve restricted markets in foreign air transportation. These proceedings include the United States-Brazil/Argentina All-Cargo Exemption Proceeding and the Guam/Saipan-Manila Route Proceeding.

We also anticipate other significant carrier selection cases, including a new Transatlantic Route Proceeding. The five-year certificates awarded in the last such Transatlantic Route Case case expire in January 1983. Authority for a series of other limited entry international markets is held by carriers holding shorter-term (two to three year) certificates set to expire during the fiscal 1982 and fiscal 1983 period. We are presently considering extending these certificates to five-years' duration, consistent with our current practice. However, if the original expiration dates were to apply, carrier selection cases would likely be necessary for, among other markets, U.S.-China, Central Zone-Venezuela, Minneapolis-London, Florida-Mexico, Miami-London and Denver-London.

Decisions by carrier management to alter or realign route systems could generate significant additional Board activity in the carrier selection field. For example, the recent Braniff decision to suspend Houston-Acapulco service on April 24, 1982, has prompted several competing exemption applications and the likelihood of competing certificate applications from carriers seeking to replace Braniff in the market.

UNFAIR PRACTICES

Question: Foreign governments have on occasion been accused of involvement in unfair competitive practices such as excessively high user charges levied on U.S. air carriers. What sort of record keeping system does the Board have to keep track of these complaints?

How successful has the Board been in resolving complaints of this nature?

Response:

(a) Record keeping

Formal complaints under the International Air Transportation Fair Competitive Practices Act (IATFCPA) become part of a public docket immediately upon filing at the Board. This docket contains copies of all pleadings and other submissions related to the complaint. It is updated continuously. In addition, the Board's Docket Section maintains ready-reference binders describing in summary fashion the pleadings and rulings on every item to have been formally docketed at the Board. Finally, the Bureau of International Aviation's Legal Division, which serves as the Board's principal staff component on the processing of IATFCPA complaints, maintains complete case files for all such complaints.

For information on informal complaints, the Board relies on the regional files of the Bureau of International Aviation. The structure and feasibility of an automated record keeping system for tracking informal complaints is currently being investigated.

(b) Board success in resolving complaints

Restrictions on Operating Rights and Fares frequently arise from philosophical differences between the United States preference for freedom of airline initiatives in scheduling and pricing, and the desires of many foreign governments to strictly regulate such airline offerings. The Board is committed to the proposition that rights we have secured on paper in exchange for rights granted to our bilateral partners must also exist in the marketplace. In this regard, the Board has been fairly successful in eliminating restrictions on operating rights and fares which are inconsistent with bilateral agreements. Even where rights under an agreement were not involved, our demonstration that the U.S. Government could and would be equally restrictive has frequently been sufficient to eliminate the foreign government's restrictions. Retaliatory actions must, nevertheless, be used with discretion, and as a last resort following unsuccessful negotiations, since such action can generate counter-retaliations which could do economic harm to our airlines and create a disruption of airline services.

A case in point, involving operating rights, was the complaint filed by Continental/Air Micronesia against Japan alleging denial of increased frequencies to Tokyo, and access to Osaka, from Micronesia, to which it was entitled under the U.S.-Japan Air Transport Services Agreement. The restriction was particularly disturbing since Japan Air Lines (JAL) had itself increased its capacity from Osaka. Within the 60 day period provided under the 1980 amendments to the IATFCPA, the Board found a violation of the bilateral by Japan and concluded that sanctions should be imposed. However, sanctions were deferred pending negotiations which satisfactorily resolved the issue in September, 1980.

There remains unresolved with Japan the access of United to Tokyo from Seattle/Portland, the subject of another IATFCPA complaint. We remain hopeful that this long-standing issue can finally be resolved through intergovernmental negotiations. Should a negotiated settlement not prove possible, however, the Board has announced and made ready a series of sanctions that quickly could be imposed on JAL.

The U.S. Government was successful in reaching an accommodation on charter restrictions imposed by Portugal in April, 1981 against U.S. carriers, after the Board proposed to disapprove a charter program of the Portuguese carrier. Charters are not covered under the US-Portugal bilateral air agreement. An outstanding bilateral problem, involving operations by TWA between Lisbon and Barcelona, is currently the subject of a CAB schedule filing order against the Portuguese carrier.

Other problems concerning operating rights which have arisen since 1980 have been satisfactorily resolved with Columbia, India, the Federal Republic of Germany, the United Kingdom, Italy, Egypt, Saudi Arabia, Panama and Spain. Unresolved problems remain with Brazil, Canada, Nigeria, Egypt, Pakistan, and Malaysia.

Our ability to avoid disapprovals of fares filed by U.S. carriers is more limited since older bilateral texts grant the respective governments the right to reject proposed fares. The difficulty here is that many foreign governments will permit only those discount fares which are particularly advantageous to their national carrier. We have been successful in countering such actions by France and Scandanavia, by disapproval of the discount fare programs proposed by their carriers, leading to a negotiated resolution reasonably satisfactory to both sides. Unfortunately, new fare problems have arisen with France, resulting in the Board's recent disapproval of fare filings by Air France, including proposed reductions in the Concorde supersonic fares.

In the case of Germany, following a TWA complaint under the IATFCPA, the Board concluded that Germany's denial of TWA's matching fares, through interline arrangements to interior German points, was discriminatory and in violation of the new liberal form tariff provisions of the U.S.-Germany bilateral. A satisfactory resolution was ultimately reached following the CAB deferral of sanctions under the Act. A similar interline fare matching dispute was resolved with India, following CAB disapproval of an Air India proposed fare under the old form bilateral tariff provision. Other fare disputes have been satisfactorily resolved with Pakistan, Argentina, Uruguay, Ireland and New Zealand. Disputes remain outstanding with Pakistan and France.

Other discriminatory practices are more difficult to resolve, since they frequently involve governmental policies which may be unrelated to the economics of air transportation. These include discriminatory Ground Handling and services, restrictions on Currency Remittance, and excessive and discriminatory User Charges or Taxes. The Board, in conjunction with the Departments of State and Transportation, will continue to vigorously pursue all forms of indirect discrimination. It has been reasonably successful in eliminating these practices on many occasions in the past.

Ground Handling problems typically involve a requirement that foreign carriers utilize the ground services of a national carrier, or where foreign carriers are required to utilize the ground services of an independent company, the national carrier may alone be permitted to perform its own ground handling. It is important for airlines to exercise control over their ground handling services, since, with respect to passengers, inefficient service reflects adversely against the airline, and for cargo, handling by an entity which is not subject to the control of the airline can result in delays and losses. However, many airports consider that their facilities are inadequate to permit each carrier to perform its own ground handling. In these situations it is important that the national carrier be subject to the same disabilities as other carriers in order to avoid competitive inequality. Our model form bilateral agreement includes a provision guaranteeing the option of self ground handling, with non-discriminatory access to independent suppliers where self handling is impossible because of the facilities available.

We had serious ground handling disputes with Singapore and Korea which were ultimately resolved after lengthy negotiations by guarantees in the bilateral agreements and side understandings. A similar problem with the United Kingdom was also resolved satisfactorily. TWA has recently filed a complaint under the IATFCPA with respect to discriminatory treatment in Italy. Problems have also existed with Japan, Nigeria and Canada.

Another problem which has arisen is access to the national carrier's centralized computer reservation system. We have been reasonably successful in resolving denied access problems with Germany, but still have outstanding problems with France. Discriminatory fuel pricing (lower costs for the national carrier) has in the past been a problem with several countries.

Currency Remittance became a major problem with Taiwan, but was ultimately resolved satisfactorily when tied to the grant of certain cargo rights. We successfully resolved currency problems with Yugoslavia and Pakistan, but still have outstanding problems with Ghana and Nigeria. Currency remittance problems represent an area where aviation requirements may conflict with general financial regulations of a government unrelated to aviation. Our model form bilateral agreement includes a provision guaranteeing the right of currency remittance.

Excessive and discriminatory airport User Charges represent one of the most difficult practices to remedy. One of the difficulties is that governmental support of airport, airways and navigation facilities is so widespread that it is very difficult to establish that even very high fees exceed the costs of providing the service. Moreover, the very complexity of user charges creates difficulties in remedying injurious but perhaps unintended discrimination. We are currently negotiating with the United Kingdom with respect to excessive charges at Heathrow Airport which are so structured as to discriminate against transatlantic carriers. While our representations have not yet resolved the problem, we did successfully forestall a proposed 10% increase in the charges. We have had some success in resolving user charge problems with Yugoslavia, but have had less success with Bolivia, Brazil, Australia, the Philippines and Japan.

We were successful in challenging a Canadian fuel tax which was inconsistent with the bilateral tax exemption provisions. Our demand for arbitration under the bilateral has resulted in a Canadian offer to revise the tax system, and to remit the amounts collected from U.S. carriers. A similar problem with India was also successfully resolved.

ESSENTIAL AIR SERVICE

QUESTION: Which cities are currently receiving subsidized essential air service and what is your projection in this regard through fiscal year 1983?

ANSWER: At the present time, there are 74 cities for which we have set final section 419 subsidy rates. These cities, listed by state, are as follows:

Alaska - Atka Island

Arkansas - El Dorado/Camden
Jonesboro

California - Bakersfield
Chico
Crescent City
Santa Rosa

Georgia - Athens
Brunswick
Moultrie/Thomasvlle

Illinois - Mt. Vernon

Indiana - Kokomo/Logansport/Peru

Iowa - Clinton
Ottumwa

Kentucky/
Tennessee - Clarksville/Ft. Campbell/Hopkinsville
London/Corbin

Maine - Lewiston/Auburn

Massachusetts - New Bedford

Michigan - Jackson

Minnesota - Fairmont
Mankato
Worthington

Mississippi - Greenwood
Natchez
University/Oxford

Missouri - Kirksville

Montana - Glasgow
Glendive
Havre
Lewistown
Miles City
Sidney
West Yellowstone
Wolf Point

Nebraska - Alliance
Chadron
Columbus
Hastings
Kearney
McCook
Norfolk
Sidney

Nevada - Elko
Ely

New Mexico - Alamogordo
Carlsbad
Gallup
Hobbs
Roswell
Santa Fe
Silver City

New York - Liberty/Monticello
Massena
Ogdensburg
Plattsburgh
Saranac Lake/Lake Placid
Watertown

North Carolina - Rocky Mount

North Dakota - Devils Lake
Jamestown
Williston

Oklahoma - Enid
- McAlester
Ponca City
Stillwater

Oregon - Astoria/Seaside

South Dakota - Yankton

Texas - Paris

Vermont - Montpelier/Barre

Virginia - Danville
Hot Springs

Washington - Ephrata/Moses Lake
Wenatchee

West Virginia - Elkins

Since we anticipate that section 406 subsidy will be terminated at the end of FY 1982, we project that 100-120 cities in the lower 48 states will be receiving section 419 subsidized service by September 30, 1982.

CITIES WITH HOLD-IN SERVICE

Question: Which cities are currently receiving service due to the Board ordering an incumbent to retain service in that area because a replacement air carrier has not been found? Designate which carriers were formally serving these communities under section 406 provisions?

Answer: We are currently holding-in carriers at the following points:

Alaska - St. George

Arizona - Kingman
Prescott
Winslow

California - Blythe

Iowa - Ft. Dodge
Mason City

Michigan - Iron Mountain
Ironwood
Manistee

Minnesota - Sault Ste. Marie
Thief River Falls

Oklahoma - Lawton-Oklahoma City

Oregon - North Bend
Pendleton
Salem

Puerto Rico - Ponce

South Dakota - Brookings
Huron
Mitchell
Pierre

West Virginia - Parkersburg-Columbus, OH

Wisconsin - Janesville
Manitowoc

Section 406 carriers are held-in as follows, by carrier:

Republic - Iron Mountain, MI
Ironwood, MI
Manistee, MI (carrier has subcontracted with a commuter)
Sault Ste. Marie, MN
Thief River Falls, MN
Brookings, SD (subcontracted to a commuter)
Huron, SD (subcontracted to a commuter)
Mitchell, SD (subcontracted to a commuter)
Janesville, WI (subcontracted to a commuter)

Cochise - Kingman
Prescott
Winslow
Blythe

Ozark - Ft. Dodge
Mason City

SECTION 419 SUBSIDIES

Question: Distinguish between the types of section 419 subsidies which are being paid out and how much each air carrier is currently receiving under this subsidy.

Answer: There are two types of compensation under section 419: 1) compensation for replacement carriers selected for one or two year periods to provide essential air services and 2) compensation for losses incurred by carriers which have filed notice to leave a point and are "held-in" during the time a replacement carrier is being sought. The following table shows the amounts of subsidy by carrier for the two types of 419 compensation for the month of February 1982.

Section 419 Obligations for the Month of
February 1982

Carrier	Essential Air Service	Compensation for Losses	Total
AeroMech	$ 25,381		$ 25,381
Air Kentucky	49,281		49,281
Air Midwest	34,258		34,258
Air North	65,227		65,227
Aspen		$403,200	403,200
Atlantic Southeast	63,507		63,507
Bar Harbor	29,619		29,619
Big Sky	181,705		181,705
Cascade	40,459		40,459
Cochise		59,859	59,859
Direct Air	21,630		21,630
Golden West	10,432	70,613	81,045
Green Hills	25,824		25,824
Jamaire	12,828		12,828
Mesaba	50,478		50,478
Metroflight	100,379		100,379
Mid-South	43,319		43,319
Mississippi Valley		39,045	39,045
Newair (formerly New Haven)	30,315		30,315
Northern		12,722	12,722
Peninsula	17,796		17,796
Pioneer	159,682		159,682
Precision Valley	18,872		18,872
Provincetown-Boston	60,400		60,400
Republic (Mid Continent)		26,400	26,400
Republic (Simmons)		22,440	22,440
Rio	12,262		12,262
Royale	32,120		32,120
Scheduled Skyways	20,059		20,059
Simmons	33,860		33,860
Sun		8,336	8,336
Sun West	19,392		19,392
United		217,409	217,409
West Air	60,560		60,560
Total 419 Subsidy	$1,219,645	$860,024	$2,079,669

Question: Provide data for the record which shows the subsidy per passenger in essential air service markets by air carrier for 1981 and what percentage of the coach fare the subsidy constituted.

Answer: We are in the process of compiling per passenger subsidy figures for the fourth quarter of 1981, but this analysis, which requires gathering data from various sources, is not yet complete. Therefore, we are providing the requested information for the third quarter of 1981, the latest available compilation. Data are not shown for all cases for reasons indicated in the footnotes.

419 Subsidy Per Passenger
Where Payments Were Made in 3rd Quarter of 1981

Carrier/Point	Compensation Per Passenger	% of Coach Fare
Big Sky-Montana Points	$43.77 1/	- 2/
Metroflight-McAlester, Stillwater, OK, &Paris, TX.	126.60	207.1%
PBA-New Bedford, MA	20.27	44.2
Air North-N.Y. State	14.91 1/	- 2/
ASA-Brunswick, Ga.	28.41	33.8
Pioneer-Alliance, Chadron & Sidney, Neb.	56.27	76.1
Air Midwest-Alamogordo, Silver City	31.45	39.0
Simmons-Jackson, Mich.	- 3/	-
Schd. Skyways-El Dorado/ Camden	138.03	168.6
Big Sky-Jamestown, N.D.	49.45	58.1
Royale-Natchez	127.23	227.2
New Haven-Catskills	144.82	308.1
Big Sky-Devils Lake	34.72	70.3
Green Hills-Kirksville	124.46	197.6
Aeromech-Elkins	- 3/	-
Mid-South-Rocky Mt./ Wilson, NC	24.40	46.2
WestAir-Chico	13.86	28.9
Bar Harbor-Lewiston/ Auburn	82.53	152.8
ASA-Moultrie/ Thomasville	429.50	390.4
Direct Air-Kokomo/Peru/ Logansport,Ind.	152.20	234.2
WestAir-Santa Rosa	21.72	74.9
Air Kentucky-London/ Corbin	161.99	257.1
Precision Valley-Montpelier/ Barre	20.59	34.4
Cascade-Moses Lake/ Ephrata	- 5/	-
Mid-South-Danville	$85.72	149.7%
Colgan-Hot Springs, Va.	59.10	73.9
Pioneer-Santa Fe	10.54	11.7
Perkiomen-Hazleton	- 4/	-
Peninsula-Atka Island	- 3/	-
Air Kentucky-Mt. Vernon, IL.	37.67	76.9
WestAir-Crescent City	46.61	51.8
Jamaire-University/ Oxford & Greenwood	51.38	90.5
Cascade-Astoria, Ore.	84.45	201.1
Rio-Jonesboro	14.17	37.3
Aspen-West Yellowstone	24.50	26.6
Weighted Average	$34.63	

Footnotes:

1/ Actual compensation per passenger is an estimate due to inconsistencies in the actual passenger data reported.
2/ Since the coach fare used in this calculation is a weighted average over several markets and we do not have reliable passenger data for all markets, we cannot compute this ratio.
3/ No passenger data reported.
4/ Effective September 1981, EAS redefined as zero.
5/ We do not have reliable passenger data for this point's EAS market and have therefore not computed the actual compensation per passenger.

SECTION 419 COST SHARING

Question: It is the understanding of the Subcommittee that the Board is studying a staff proposal which calls for local government sharing the costs of section 419 subsidies, with an initial formula of an 80-20 ratio of federal and state sharing. Does the Board currently have any position on this proposal?

Answer: There is a staff proposal before the Board that is different from the January 1, 1980 Joint Report, CIVIL AERONAUTICS BOARD & U.S. DEP'T OF TRANSPORTATION, SHARING OF FEDERAL GOVERNMENT AIRLINE SUBSIDY COSTS BY STATE GOVERNMENTS AND THEIR POLITICAL SUBDIVISIONS (1980), in that it suggests a diminishing, rather than a fixed ratio. The CAB is currently studying the cost sharing concept, and does not yet have a position on it.

Continuation of Section 406 Subsidies

Question: The appropriations language for fiscal year 1982 prohibited the Board from paying section 406 subsidies after March 20, 1983, to air carriers serving communities enplaning 80 or more passengers. Will any section 406 subsidies be paid to air carriers serving communities enplaning less than 80 passengers a day? Provide detail for the record.

Answer: Yes. The following table provides the under 80 daily enplanement points and maximum amounts of subsidy which will be provided to section 406 carriers during the remainder of FY 1982. The period covered is April 1, 1982 to September 30, 1982, the period during which ceilings on 406 subsidy apply. The final appropriations for the Department of Transportation and Related Agencies was signed into law on December 23, 1981. This superseded the continuing resolution which had been signed earlier. For this reason, the elimination of 406 subsidies for over 80 daily enplanement points begins on March 29, not March 21 as noted in the question. The following list does not include points which are on notice of suspension. These noticed points will be compensated under 419 of the Act.

Section 406 Maximum Subsidy By Point

Carrier/Point	Maximum 406 Subsidy April 1 - September 30, 1982
Frontier	
1. Scottsbluff, NE.	$425,955
2. Montrose/Delta, CO.	351,428
3. Salina, KS.	745,408
4. Rock Springs, WY.	625,333
5. North Platte, NE.	777,070
6. Riverton/Lander, NE.	153,464
7. Laramie, WY.	363,933
8. Cheyenne, WY.	445,154
Total	$3,887,745
Republic	
9. Tupelo, MS.	$363,599
10. International Falls, MN.	159,231
11. Brainerd, MN.	302,454
12. Watertown, SD.	712,428
13. Bemidji, MN.	263,798
14. Muscle Shoals/Florence/Scheffield/ Tuscumbia, AL.	295,794
15. Escanaba, MI.	502,386
16. Valdosta, GA.	296,112
17. Laurel/Hattieburg, MS.	281,810
18. Hancock/Houghton, MI.	183,055
19. Tuscaloosa, AL.	367,742
20. Meridian, MS.	$ 329,168
21. Hibbing/Chisholm, MN.	353,978
22. Rhinelander, WI.	359,150
23. Pellston, MI.	390,836
24. Eau claire, WI.	454,362
25. Greenville, MS.	417,585
26. Aberdeen, S.D.	777,203
27. Benton Harbor, MI.	325,782
Total	$7,136,473
Republic West	
28. Klamath Falls, OR.	$ 208,330
29. Bend/Redmond, OR.	835,569
Total	$1,043,899
Piedmont	
30. Winston-Salem, NC.	$ 741,047
31. Greenbrier/Lewisburg/ White Sulphur Springs, WV.	386,101
Total	$1,127,148
Air Midwest 1/	
32. Goodland, KS.	
33. Garden City, KS.	
34. Dodge City, KS.	
35. Hays, KS.	
36. Great Bend, KS.	
37. Hutchinson, KS.	
38. Independence/Coffeyville/Parsons, KS.	
39. Lamar, CO.	
Total	$683,149

Carrier/Point	Maximum 406 Subsidy April 1 - September 30, 1982
Sky West 2/	
40. Page, AZ.	$65,171
41. Cedar City, UT.	30,694
Total	$ 95,865
Subtotal - 48 States	$13,974,279
Alaska Airlines 1/	
(28 points)	$1,657,328
Wein Air Alaska 1/	
(121 points)	$2,343,222
Kodiak Western 1/	
(44 points)	$183,882
Subtotal-Alaska	$4,184,432
Grand Total	$18,158,711

1/ Subsidy not assigned by point.
2/ Subsidy terminates by certificate provision on May 31, 1982.

LIQUIDATION OF CONTRACT AUTHORITY

Question: The Board is requesting $8.242 million in supplemental funding for fiscal year 1982 for the purpose of liquidating contract authority. Detail for the record which contracts are being liquidated and the amount being spent per contract.

Answer: Estimated Unpaid Obligations at September 30, 1981.

406 Subsidy:

Frontier	$2,096,089
Republic West	814,864
Ozark	1,298,184
Piedmont	471,670
Republic	2,270,871
Air Midwest	107,269
Air New England	80,762
Cochise	50,236
Sky West	35,319
Alaska	233,759
Kodiak-Western	20,227
Wien Air Alaska	781,248
Total 406 Subsidy	$8,260,498

419 Subsidy:

Aeromech	$27,495
Air Kentucky	36,340
Air Midwest	77,185
Air North	69,887
Air US	8,675
Aspen	(41,156)*
Atlantic Southeast	68,266
Bar Harbor	76,996
Big Sky	161,745
Cascade	43,727

* Advance payment shown as receivable from carrier at 9-30-81.

Colgan	28,678
Courtesy	11,008
Direct Air	23,175
Green Hills	27,976
Jamaire	13,745
Mesaba	54,684
Metroflight	51,425
Mid-South	42,842
Mississippi Valley	42,664
Newair (formerly New Haven)	30,114
Ozark	11,237
Peninsula	17,796
Pennsylvania	20,280
Precision valley	20,219
Provincetown-Boston	67,905
Republic/Mid Continent	28,800
Rio	13,137
Royale	30,495
Scheduled Skyways	28,669
Simmons	36,278
Southeastern	20,630
Sun Bird	21,008
Sun West	6,882
West Air	65,607
Total 419 Subsidy	$1,244,414
Total 406 and 419 Subsidy	$9,504,912
Less: Balance of unpaid obligations recorded during previous month	($1,190,308)
Obligations recorded during September 1981	$8,314,604
Less: Balance of Appropriations available as of August 31, 1981	(72,456)
Contract authority as of September 30, 1981	$8,242,148

PROPOSED LEGISLATION

Question: Summarize for the record any legislation you intend to propose during the coming year.

Answer: The Board does not plan to propose any further legislation this year.

WORKSPACE CONSOLIDATION

Question: What workspace consolidation efforts has the Board undertaken during the past year? What savings have resulted from these efforts? What are the future consolidation plans of the Board regarding workspace?

Answer: From the period between October 1, 1981 to the end of February 1982, we have given back 22,527 square feet of excess space to the General Services Administration. This excess space resulted primarily from vacating four of the Board's hearing rooms and from moving three of our bureaus and offices from the tenth floor of the Universal North Building into surplus space resulting from lower staff and activity levels in other bureaus and offices. The FY 1982 savings from these consolidations should equal $184,000. In addition, we are making further consolidations during the fourth quarter, including the closing of our remaining three consumer field offices, that should generate an additional 8,726 square feet and a savings of $31,000.

Thus as a result of these consolidations, our FY 1982 total space bill is a $215,000 reduction over our original estimate and will be used to partially overcome our shortfall resulting from budget reductions.

As we continue to reduce our staff level during 1983, we expect further consolidations that will produce additional savings of $116,000 over the 1982 levels. These savings were taken into consideration in preparing our reduced budget request.

ACCELERATED "SUNSET"

Question: There are several legislative proposals currently before Congress which call for the acceleration of CAB's sunset. What is your current position on this?

Answer: The CAB continues to support early sunset, but opposes provisions in early sunset legislation that would in effect re-regulate the airline industry.

The Board believes that it is essential that the date for sunset be set well in advance, and that there be a flexible transition to that date. This will make possible an effective termination of the agency's responsibilities and a smooth and sensitive transition for its employees.

While we are able to accomplish sunset whenever Congress may so order, it is becoming increasingly impractical to close down the Board this year. The closer to the sunset date that the order is given, the more disruption would occur in all areas: administrative, statutory responsibilities, and personnel.

At this time, although we are able to accelerate it if necessary, the Board is proceeding administratively for a January 1, 1985, sunset.

AIRLINE BANKRUPTCIES

Question: Airlines have been sustaining major losses during the past few years. It looks as though several of the major U.S. carriers could go bankrupt. Does the Board feel that the government should give some kind of assistance to these airlines or move towards reregulation?

Answer: While the airlines have experienced recent losses, it would be wrong to suppose that government intervention or regulation might have produced different results. To a large extent, carriers' financial problems stem from factors over which the Board has little influence and virtually no control: aviation fuel price increases over the last decade which have in turn affected operational efficiencies; the current recession which, consistent with past experiences under regulation, has depressed travel demand; unprecedented interest rates which make it difficult for air carriers to service debt in an industry that has characteristically been highly leveraged; and the Air Traffic Controllers walkout which has adversely affected airlines' ability to schedule their operations optimally.

The new competitive environment has also put pressure on some carriers. A few had been very slow to adapt to the new environment and others made what, in retrospect, appear to be serious miscalculations. When coupled with the drop in traffic caused by the recession the effect has been to create a serious crisis for six or seven of the airlines. However, other carriers have prospered--even in these relatively bad economic times--by taking advantage of competitive opportunities. We should also remember that not long ago in the initial stages of deregulation, even carriers that had not done particularly well under regulation posted impressive profits when the economy was strong. While it may be tempting to believe that government intervention could cure the present difficulties in the airline industry, the history of regulation suggests that government regulators do not always make the "right" decisions and that not all carriers will prosper regardless of general economic conditions.

While there are strong reasons to reject reregulation, Congress, the Board and other government agencies could pursue policies aimed at assisting airlines consistent with the overall goal of deregulation and reliance on competition. For example, the Board has taken several actions designed to ameliorate some of the hardships caused by the FAA's slot allocation program. But of greater potential value are the types of assistance that Congress has frequently given unregulated industries by providing general or specific tax relief, encouraging technological advancements and promoting capital formation. No one seriously maintains that government regulation would solve all the problems in other industries. It is equally apparent that government regulation is not the answer for the airlines.

RULES ON FARE WARS

Question: Airlines in trouble have been looking for a way to cut their losses. For example, World Airways recently petitioned the Board to tighten restrictions on discounting by requiring carriers to justify any fare set at a level less than 50% of the Standard Industry Fare Level. What is the Board's position on this and other proposals which would stop destructive fare wars at the cost of more regulation?

Answer: Because the Board will soon be considering the World petition, it is not possible to comment specifically on that proposal. However, the Board can offer several general observations about current pricing behavior in certain markets. A fundamental defect of fare regulation was that prices in individual markets did not reflect the actual costs of service which can vary greatly depending upon type of aircraft, load factor, distance flown, and individual carriers labor and overhead costs. The zone of fare flexibility within which the Board cannot suspend a fare was created largely to remove the Board from the determination of whether a fare was economically justified.

Carriers have better access to marketing and cost data and, most importantly, they adopt pricing strategies to fit their individual corporate requirements. While carriers are presumably always seeking to maximize profits, market conditions may not be conducive to this pursuit. When overall traffic levels are down, it is reasonable to assume that management will pursue the best strategies to minimize losses. In addition, incumbent carriers in some major markets where there has been substantial new entry may match low fares to maintain their market share. Even under regulation, carriers were allowed to match a competitor's fare without proving that their costs were equal or below the competition's. From the individual carrier's perspective, the loss of traffic or market share could well have a more severe financial impact than matching the lower fare and retaining passengers. Even if this behavior may seem "destructive", it may be better than any alternative. Cutting price to stimulate demand or to meet competition is common to many industries during recessionary periods. The recent case of manufacturer rebates in the auto industry is but one of many examples.

The regulatory task of determing whether a fare is cost justified in a particular market is also very difficult, if not impossible. Economists agree that marginal costs rather than fully allocated costs govern pricing decisions; yet the process of quantifying the marginal cost of a plane seat is susceptible to almost endless debate. Even average costs vary from market to market and depend on costing allocations that are within the carrier's discretion. Because of this impossibility of proof, prior regulation was premised on very generalized fare methodology that often did injustice both to passengers and air carriers.

SMALL TOWN SERVICE

Question: A study by a private consulting firm recently found that air services to small towns have actually improved since deregulation -- that is, the amount of time it takes to travel between small cities and their most likely regional destination has fallen by an average time of one hour per round trip. Does the Board agree with these findings?

Answer: The CAB staff has reviewed this study conducted by Gary Dorman for National Economics Research Associates. The study and its conclusions appear sound.

The conclusions of this study are consistent with changes in small community service that have resulted from changes in airline service patterns. The air service network is becoming better integrated as the airlines tailor their route networks to better match travel demands.

The changes in the air service network since deregulation are increasing the number of airlines operating in major markets, but at the same time they are permitting a more efficient and convenient flow of traffic into major markets because the airlines are tailoring service to better match traffic flows. Improvements in the air service network have directly benefited small-community travelers in at least two ways:

(1) The improved integration of the air service network means that more passengers can fly direct to their destinations now than before deregulation. Fewer trips require connections, and fewer connections require transferring among airlines: A CAB staff analysis found that between 1978 and 1980 the fraction of travelers who had to connect en route declined three percentage points, and of the travelers who made connections the share that remained on the same airline increased by 35 percent in one sample of markets.

In particular, under CAB regulation, local-service airlines were restricted to serving small subsidized markets, as well as a few dense markets within their traditional service regions. Travelers from smaller towns within the region were thus forced to transfer to trunk airlines to travel beyond the region. Since deregulation, the locals have expanded into many long-haul markets, thus allowing more travelers to make their entire trip on the same airline, and perhaps on the same plane. One example of this is USAir's expansion into markets serving Arizona, Texas, Louisiana, and Florida from its regional hub in Pittsburgh. Many passengers in USAir's regional service area can now stay on the airline all the way to these destinations.

(2) Although there has been a slight reduction in total departures to small communities since deregulation, this actually reflects an improvement in the average level of service small communities receive. Between June 1978 and June 1981 total departures at 480 non-hub airports fell two percent (table 1).

Table 1: Percentage Changes in Departures by Airport Category (June 1981 vs. June 1978)

24 Large Hubs	37 Medium Hubs	70 Small Hubs	480 Non-Hubs
11.0%	6.2%	-.4%	-2.0%

But over the same period, flights from these small communities to large and medium hub airports increased 2.7 percent and .6 percent respectively (table 2). Thus, the reduction in departures came predominately in flights to small hubs and other non-hubs, which mainly reflects a shift toward more direct flights and away from "milk-runs" that stopped at many small communities en route to a major airport. Overall, small communities have more direct access to major centers of commerce and major connecting airports.

Table 2: Percentage Changes in Departures by Market Category (June 1981 vs. June 1978)

Origin Airport	Large Hub	Medium Hub	Small Hub	Non-Hub
Large Hub	.5	5.4	- 1.5	2.7
Medium Hub		6.2	- 1.9	.6
Small Hub			-12.4	-12.5
Non-Hub				-18.2

In addition, it is sometimes asserted that local service route abandonments leave small markets with less service, or no service. A 1981 Board staff study shows that, in fact, the small communities where trunk and local-service airlines have pulled out have experienced an increase in flights (two percent) between 1978 and 1980.

To be sure, many small communities have lost service -- as many have gained. There is a tendency to focus attention on the losers, which creates an impression that there is a trend toward reduced service at smaller communities. However, on balance this is not true; in several important respects this class of city is receiving better service than before deregulation.

ACCESS TO MAJOR HUBS

Question: As more major air carriers pull out of small and medium size cities, these routes should be taken up by commuter airlines. However, in order to be effective and provide necessary service, these commuters need access to regional hubs. How has slot restriction by the FAA due to the air traffic controllers strike affected the ability of commuter airlines to provide service?

Answer: Although we have no data base to support our views, it is our opinion that current FAA restrictions have presented a problem for commuter carriers taking over for major air carriers. Since the PATCO job action we have worked closely with the FAA in obtaining "slots" at the major hub airports for commuter carriers performing essential air service. Obtaining these slots is now one of the major factors in replacement cases whereas, prior to August 1981, slots were only a minor consideration. Our success in obtaining slots has been mixed. When we do obtain them it is because the commuter already has slots at the hub, the departing carrier has been willing to relinquish the slots it was using for essential air service, or the FAA, with whom we have an excellent working relationship, has been able to find additional slots for us. When essential air service is not involved, commuters have had considerably more difficulty in either entering markets or adding more flights. For example, Britt Airways was recently unsuccessful in its bid to acquire additional slots at St. Louis for non-essential service. The FAA advised us that current limitations on the volume of service at St. Louis made it impossible to grant Britt's request. An example of an essential service situation where we were unsuccessful in obtaining slots is Ironwood and Iron Mountain, Michigan, section 406 points where Republic recently filed notice to suspend. In this instance, we have been unable to obtain slots for Freedom, a willing replacement carrier. Republic is unwilling to give up its slots because it maintains that they are needed to provide essential air service at other points on its system. As a result, Freedom Airlines, which wants to replace Republic at these Michigan points on a non-subsidized basis, is precluded from replacing Republic and we must continue to subsidize Republic. In other cases, replacement service was by commuter carriers, because they already had slots at hubs, even though a jet operator would have been willing to provide service if slots were available.

In summary, FAA restrictions have made our search for replacement service more difficult and somewhat less successful. Nevertheless, the replacement process is still continuing at a good, but slower, pace.

Question: What has the Board done to coordinate with FAA about this problem?

Answer: In addition to informal contacts in individual cases as described in the preceding question, the Board is considering various recommendations that it might make to the FAA for changes in slot allocation procedures. To this end, the Board has issued a notice inviting public comments on possible recommendations (47 FR 12369, March 23, 1982). The notice includes a recommendation that would address "hardship communities," which might be defined as those losing more than a certain percentage of their airline capacity within a 30-day period. Slots for commuters or other carriers willing to provide replacement service to these communities could be awarded by the Board. The slots could come from a pool of incremental air carrier slots that FAA would hold out of its slot lottery and allocate to the Board for this purpose. Alternatively, the slots could come from those that the FAA currently reserves for general aviation. The Board is also considering a recommendation to provide greater slot priority to new entrant carriers. Under one variation, this recommendation could also provide relief to some commuters.

After April 16, the deadline for reply comments on the March 23 notice, the Board will decide what recommendations, if any, it should make to the FAA.

SUNSET LEVEL OF OPERATION

Question: You mention in your statement that the $24.5 million you are requesting for Fiscal Year 1983 would need to be appropriated whether the functions for which they are used are performed by CAB or elsewhere. Does this mean that we will not see any significant personnel reductions in the CAB until sunset? What about program reductions?

Answer: You can expect some reductions after 1983 in our nontransferring activities such as certain aspects of the domestic and consumer programs, and the economic analysis activity. But, we do not expect any reductions in our transferring programs, which include small community air service (section 419), international aviation, regulatory information, and competition maintenance, as well as certain other miscellaneous functions.

We should point out that the September 1981 budget revisions affecting 1982 and 1983 sharply accelerated our systemtic phase-down and virtual elimination of several activities. For example, our 1982 request was reduced from 603 permanent positions to 503, and the 1983 request (to OMB) for 527 permanent positions was reduced to 427.

In order to achieve these significant reductions without harm to major continuing programs, we accelerated reductions in many nontransferring activities, in particular, the consumer program. Since these sharp reductions weren't enough, we reduced levels in certain other areas, such as international pricing, regulatory information, and competition maintenance.

We believe that the levels now projected at the end of 1983 for our transferring programs are the minimum necessary to carry out the activities charged to the Board in a responsible and effective manner.

TRANSFER OF FUNCTIONS

Question: The Board currently has legislation pending before Congress on early sunset for CAB. Please provide for the record where you would like to see the remaining programs of the Board transfer after sunset and your justification for this.

Answer: The Airline Deregulation Act mandated the transfer of four functions to Executive Branch agencies when the Board was eliminated. Our proposed legislation would eliminate parts of some functions and would change the recipient of certain of those functions not mentioned in the Deregulation Act. On May 7, 1981, we sent our legislative package on these statutory changes to Congress. That package included our detailed reasons for the changes.

In summary, the transfers now in the Act, the recommended changes and the reasons for them are:

--The small communities/essential air service program would be transferred to the Department of Transportation. We support this transfer as it is in the Act.

--The foreign air transportation function would be transferred to the Department of Transportation. We also support this transfer in the Act.

--Our proposal recommends that both foreign and domestic mail rate-setting functions be eliminated, rather than transferring the foreign part of this rate-setting to the Postal Service as in the Act. Our reason is that in this way all postal rates would be determined through negotiation and competitive bidding. This would increase the effectiveness of mail rate administration.

--Our proposal recommends that all merger and interlock authority be eliminated instead of transferring it to the Justice Department as in the Act. This change leaves it to the Courts to decide mergers on strictly competitive grounds, and only when challenged. A separate public interest test or mandatory administrative review is not necessary or desirable in the more competitive deregulated environment.

--The Board's proposal would transfer the agreement authority function to the Department of Transportation rather than to the Justice Department as directed in the Act. The authority for domestic agreements would expire on January 1, 1986 under our proposal. Although in the near term there are some domestic agreements that raise antitrust questions, domestic agreement filing and approval should ultimately expire since domestic air transportation is to be deregulated. With respect to agreements involving foreign air transportation, a split of authority between the Department of Transportation, which would regulate all other aspects of foreign air service, and Justice, which under the Act would supervise agreements, could result in considerable confusion and litigation and seriously disrupt the international system.

--Under the Board's proposal, the Federal Aviation Administration would assume the full responsibility to ensure that carriers are fit to provide safe transportation.

--Because of its inefficiency and the existence of the essential air service compensation program under section 419 of the Act, our proposal would eliminate the existing section 406 subsidy program, rather than transfer it to the Transportation Department as under the Act.

--The Board's rulemaking authority would be transferred to the Department of Transportation under our proposal. Since the programs being transferred to this Department are substantial, the most prudent course appears to be to give the Secretary power to act if needed to protect the public interest.

--The FTC is the natural agency to assume the Board's investigatory powers and its authority over unfair or deceptive practices and unfair methods of competition. U.S. and foreign air carriers would thus be placed in the same position in this regard as other industries. Our proposed changes would result in this transfer.

--Under our proposal, the Board's data collection authority would be reduced and transferred to the Transportation Department. Those programs being transferred to the Department will continue to require data to be operated effectively.

EMPLOYEE MORALE AND RETENTION

Question: Because of the uncertainties of employment with the Board due to pending early sunset legislation, there is the potential for increased employee attrition and poor morale. Has the Board been experiencing any problems in this area?

Answer: While we continue to have an excellent, talented staff at the Board, uncertainties created by pending sunset legislation as well as budget reductions have disturbed employees. A significant number, 120 permanent employees out of a total of 642, have left since May 1981 when early sunset proposals were first introduced. To some extent, employee morale depends upon the Congress. For example, one piece of legislation considered by the Congress included bumping provisions that would have resulted in as many as 340 employees being displaced into different jobs, many at lower grade levels. This proposal greatly increased the uncertainties as to which employees would transfer to other agencies and hurt morale.

I think morale has been improving lately. To prepare for sunset and cope with morale problems, we have developed a good plan for phasing out the Board's activities and transferring continuing functions and employees in an orderly manner. We have restricted hiring for over two years to reduce the number of employees who would otherwise be displaced by sunset. We have reassigned employees from functions being phased-out to continuing functions and instituted a successful outplacement program to assist employees in finding jobs elsewhere. Employees have been kept fully informed of sunset preparations and we plan to provide them with as much advance notice as possible as to whether their positions will be transferred or abolished. Hopefully, this notice will provide employees in transferring positions a greater sense of security and other employees an opportunity to make well-considered career changes. I have personally met every employee and expressed the value I place on their work.

There is a great deal of vitally important and challenging work still to be done in completing the process of deregulation and carrying out continuing functions such as the essential air service program. We still have the highly competent, well-motivated staff required to do this work and will continue to take steps to retain such a staff.

Question: What is the current attrition rate for employees and what are your predictions for this rate in the future as sunset approaches?

Answer: Since the passage of the Airline Deregulation Act of 1978, the number of Board employees has decreased by an average of 79 employees per year for a total reduction of 258 employees over the past three and one quarter years. During the last ten months, we've had an attrition rate of about 16 employees per month. While this rate has declined significantly in the last three months, we expect to be down to 517 employees by the end of this fiscal year and to 452 employees by the end of fiscal year 1983. This represents a reduction of about 46% in the Board's employment since October 1978.

Question: Has the Board been able to retain employees with expertise in program areas remaining with the Board until Sunset?

Answer: As discussed earlier, the Board has lost a large number of employees since the passage of the Airline Deregulation Act of 1978. In the last ten months alone, we have lost 120 permanent employees representing approximately 900 years of accumulated experience and expertise. We will lose even more employees as we reduce our staff to meet reductions in our budget. Such losses, particularly in critical positions, are difficult to replace and have significantly increased the problems involved in carrying out the Board's remaining functions, even those which will be transferred.

Nevertheless, through increased efforts by the highly talented employees remaining and by reassigning employees to positions with the highest priority, we have been able to continue to carry out our responsibilities in the effective and professional manner expected of the Board. However, further reductions in our budget, below that requested for Fiscal Year 1983, will harm and may cripple all of the Board's functions, even those such as essential air services and international aviation which continue after sunset.

Question: Do you expect to have any furloughs or reductions-in-force during fiscal year 1983? How will this affect the operation of the Board?

Answer: We do not expect any furloughs or RIF's in FY 1983, provided our attrition over the next 18 months remains at about 7-9 employees a month, and the $24.5 million requested for 1983 is approved.

For 1982, however, furloughs will occur if the Board's pay supplemental request of $766,000 is not approved in its entirety. In fact, budget constraints have already forced us to terminate over half of our 55 temporary employees, and we must lose almost 60 more employees before the end of this fiscal year just to break even with the supplemental.

TRANSFER OF EMPLOYEES AFTER SUNSET

Question: Many of the Board's current functions will be transferred intact to other agencies after sunset. It is assumed that the agencies will receive position slots to handle these new programs. Does the Board have any plan whereby current employees of the Board will be able to transfer with their positions to the other agencies?

Answer: Employees working in transferring functions have a statutory right to transfer with those functions. Board employees will be given this opportunity. We have developed a comprehensive and orderly plan for transferring employees to other agencies in accordance with personnel laws and regulations. We have tentatively identified which functions and positions will be transferred, developed methods for determining which employees will be transferred with these positions, and made provision for notifying these employees up to one year prior to sunset. These plans and tentative position identifications have been presented to employees and discussed with them in a number of briefings and meetings in a determined effort to keep them informed.

COMPETITIVE MARKETING INVESTIGATION

Question: Over the past few years, the Board has been conducting a Competitive Marketing Investigation of the pricing and marketing practices in the avaition industry. Detail for the record what the various phases of this investigation have been and any action the Board has taken as a result of this investigation.

Answer: The Competitive Marketing Investigation was begun in September 1979 to study the way air transportation is marketed. There are two major areas of investigation: the agreements phases, which relate to exclusivity, retention and accreditation standards, and cargo matters, and the pricing phase. The airline trade association agreements make travel agents placed on a list of approved agents the exclusive marketing outlet for air transportation services. In other words, passengers can only buy tickets directly from air carriers or from travel agents that meet standards on which all air carriers agree. On the other side of the coin, individual air carriers that join in these agreements cannot deal with other businesses that might want to sell airline tickets. The Board's investigation is looking at whether this prohibition on airlines' dealing with travel agents that are not jointly accredited or other kinds of retail sales outlets, like Ticketron, should continue under deregulation. The Board is also examining various ATC and IATA requirements for qualifying and remaining as an accredited agent. Travel agents have asked for changes in some of these standards. The Board could decide that individual features of the travel agency program need to be modified or disapproved.

The oral evidentiary hearing on the agreements issues has been completed and parties have submitted briefs to an administrative law judge. He is scheduled to release his recommendations on how the Board should decide the issues by June 1, 1982. The Board will then examine the record and decide whether any or all of the ATC and IATA agreements should continue to be approved and granted antitrust immunity.

The Marketing case also involved a phase dealing with pricing policies. The Board considered the hearing record on these issues in conjunction with a related rulemaking.

The Federal Aviation Act requires carriers to file tariffs stating the exact prices that the airlines and their agents will charge for air transportation. But as part of the scheduled airline deregulation, tariffs for domestic air transportation will cease to exist at the end of this year. The Marketing case examined what action the Board should take to ease the transition to the competitive environment that will exist when domestic tariffs are statutorily eliminated.

This portion of the proceeding was completed with the issuance of a regulation that relaxed the domestic tariff filing requirement. Effective October 1, 1981, the rule requires carriers to file with the Board only their unrestricted coach fares in markets they serve. The filing of all other fare categories is left to the discretion of individual carriers. Carriers and travel agents are now legally free to charge passengers fares below those on file in tariffs, that is, they are now free to discount domestic tickets.

The practical impact of the rule is that it gives individual air carriers the flexibility to charge prices and engage in fare experiments without giving advance notice of their plans to their competitors through the tariff system. In addition, airlines will be relieved from the administrative costs inherent in regulatory filings. At the same time, the proposal would not force any carrier to modify current practices before January 1, 1983 if they perceive sufficient benefits from the tariff system. It allows air carriers to continue to file tariffs and require that other sellers of their services including travel agents adhere to the prices they set.

PAY ACT SUPPLEMENTAL

Question: Do you anticipate that you will need a pay act supplemental for fiscal year 1982? If so, in what amount? How much of the total pay increase will this constitute?

Answer: The Board will need a minimum of $766,000 to cover increased pay costs arising from the October 1 comparability adjustments. This amount would raise our 'S&E' appropriation to a total of $26,266,000, which is the original level recommended by the President in his September 1981 revision.

Thus, we have in a sense absorbed the entire cost of the October comparability adjustments. In addition, we have absorbed almost $400,000 in increased costs from the raising of the cap, and also absorbed $60,000 in increased premiums for health care benefits.

We should also point out that just to make the $26,266,000 level, we have terminated half of our 55 temporary employees, and must lose approximately four employees per payroll for the remainder of the year.

CONSUMER PROTECTION

Question: Under proposed legislation, only a small portion of your consumer protection program would transfer at sunset. What portion would transfer — that is, how many positions and which functions?

Answer: In the legislative proposal which the Board submitted to Congress last spring, we recommended that our public-protection powers, which are the jurisdictional basis of many of our consumer regulations, be transferred to the Department of Transportation. The major areas in which consumer protections now exist concern charters, smoking aboard aircraft, domestic airline baggage liability, reservation oversales, consumer protection notices carriers are required to give passengers, and other aspects of the contract of carriage contained in rules tariffs filed with the Board.

We have also recommended that our general authority over unfair and deceptive practices, particularly advertising problems, and unfair methods of competition be transferred to the Federal Trade Commission because it now has similar authority over such practices in other unregulated industries.

If the Board's legislative proposal to transfer consumer functions were adopted, 4 positions should transfer to the Department of Transportation and 5 positions to the Federal Trade Commission.

Question: Your budget justification states that you are reducing positions in the consumer protection program by 50 positions during the next two years. The Board is currently considering relaxation of several consumer protection regulations in the near future, including "bumping" regulations, non-smoking rules, baggage liability, and elimination of tariffs. If these regulations are relaxed, is it anticipated that the consumer protection resources can be cut further?

Answer: We have begun comprehensive reviews of our existing consumer protection rules to determine which of them should remain after the Board sunsets. We have completed our review of the smoking rules and adopted a final regulation on September 2, 1981. When the comments we have solicited on the other rules are complete and analyzed, we will have further recommendations concerning disposition of consumer functions and the effect on staffing levels.

Our consumer role will change as sunset approaches, but its final form will depend on how our review turns out. We now expect that 19 people will be doing this work at the end of 1983--an 85% reduction from 1978. This projected reduction takes into consideration a diminishing Federal involvement in dealing with individual consumer problems. Further reductions after 1983 will depend on the disposition of consumer functions at sunset. To the extent that certain consumer functions continue elsewhere, there will be a need for staff to maintain them, and to adjust the staffing levels to handle the programs.

CARRIER INSURANCE

Question: In October 1981, the Board adopted a rule which set insurance requirements for all U.S. and foreign direct air carriers except for on-demand air taxi operators. There has been some concern in the aviation and insurance industries that this rule will cause some serious problems. One of the concerns raised has been that this rule would result not only in premium increases up to 300 percent, but that insurers would refuse to insure commuters. What is your response to this?

Answer: Since adoption of the rule, U.S. and foreign certificated air carriers have not indicated that it will cause any serious problems. So far as commuter air carriers are concerned, we concluded that the rumoured extraordinary premium cost increases have no basis in fact. After conversations with insurance brokers and underwriters, we estimate that the rule itself will result in an average premium increase of between 50 and 60 percent for commuters. That increase is not unreasonable, since commuters are required by the new rule to maintain four times more coverage than currently required, giving the public a more adequate, guaranteed source of compensation for injuries resulting from aircraft accidents. While a 50 to 60 percent premium increase is substantial, rate competition in the aviation insurance industry over the past decade has kept premiums low. Insurance underwriters, however, are now attempting to realign their rate structures, as are airlines in similar competitive circumstances. According to aviation insurance industry sources, because of the increase in settlement/judgment amounts and the generalized effects of inflation, premiums are expected to rise by 15 to 25 percent even without any change in our insurance requirements.

Similarly, the rumour that insurers would refuse to insure commuters because of changes in the Board's requirements has no basis in fact. As of April 1, 1982, 125 commuters, 64 percent of the 195 commuter carriers registered with us, have furnished certificates of insurance reflecting their compliance with the new requirements. A preliminary review conducted by the staff revealed that, as of February 4, 1982, three weeks in advance of the effectiveness date of the new requirements, we had received insurance certificates from commuters indicating that 33 brokers and 8 underwriter groups representing 14 insurance companies had issued commuter coverage in compliance with the new rule.

LABOR PROTECTION

Question: What is the Board's attitude toward merger employee protection provisions (Allegheny-Mohawk) at this time?

Answer: The so-called "Allegheny-Mohawk" labor protective provisions (LPP's) have historically been imposed as a condition of Board approval in airline merger or acquisition cases. These provisions were originally created by the Board to insure the public's access to the system would not suffer serious disruption because of labor unrest stemming from a merger. However, these regulatory concerns have no place in a deregulated environment. Although the Board questioned their need and applicability in several merger cases, it continued to apply the LPP's after the Deregulation Act, because labor groups and carrier management acceded to them as merger conditions rather than risk the delay and employee ill-will if they became an issue in the case. However we have made it clear that the LPP's are an undesirable intrusion by the government into what should be an arrangement between airlines and their employee, which in most industries is resolved through private contractual negotiations. In fact several carriers are negotiating merger clauses with their unions. If airline mergers are no longer to be regulated strictly, management and employee relationships should also not be regulated.

Question: What is your position on, and the current status of, the labor protection provisions (sec. 43) of the Airline Deregulation Act?

Answer: At this time, the Board has received applications from employees of 13 carriers asking the Board to declare that they are eligible for compensation under section 43 because of a qualifying dislocation. The Board must initially determine whether there has been a major contraction in the industry and an order concerning this question will be considered shortly. The Board must then confront the more difficult problem of determining whether the contraction was caused by deregulation. Once this is completed, the Department of Labor must adjudicate individual eligibility claims. At this time, the Department has not begun formulating regulations or procedures to administer section 43.

A majority of the Board believes that section 43 of the Deregulation Act should be repealed. The majority believes that this program is out of place in an environment where strict regulatory control is being withdrawn. In addition, the requisite finding by the Board that job loss is caused by deregulation requires the most intrusive examination of an airline's financial and management performance. It requires an exhaustive analysis of the national and the industry economy and an allocation of causation among the myriad factors that affect airline performance must be made. If the airlines are to be treated like other companies, their employees should not be given special treatment.

A minority opposes repeal of section 43 because this provision was an essential part of the mutual commitments by the government, the carriers, and their employees when the deregulation plan was first enacted. Since the carriers have been provided a transition period to adjust to a more competitive environment, they feel that airline employees also deserve such an adjustment period.

The Board also opposes the proposed changes made in the program in H.R. 5103. In the Board's view, the most troublesome change is that which would require not just those carriers certificated through 1978 but also any new carriers to participate in the "hiring hall" part of section 43. This provision could have a detrimental effect on the decisions by entrepreneurs to start new airlines or on the expansion plans of new growing airlines. Because new entry is the key to effective competition as an economic regulator, any restrictions placed on it should be only those truly necessary. In this case, there is no apparent reason to change the economic conditions for new carriers.

QUESTIONS SUBMITTED BY SENATOR CHILES

Civil Aeronautics Board

Question: Last year the Committee included language in the bill which had the effect of limiting expenditures under section 406. Essentially, the limitations included in Public Law 97-102 are as follows:

-- 95 days after enactment of P.L. 97-102, no 406 payments were to be made for services to points which enplaned an average of 80 or more passengers per day in FY 1981;

-- For the second half of FY 1982, a limit of $14 million was established for all 406 payments with the exception of Alaska and for Alaska a limit of $5.5 million was established.

I understand that the 95-day period following enactment of P.L. 97-102 expired a few days ago. Have any 406 payments been stopped to points which enplane an average of 80 or more passengers per day in FY 1981? Which airlines for service to which points have lost subsidy payments under the 80-passenger per day provision. What impact is this expected to have on service to these points? Will section 419 payments now be required for subsidy payments to these points? If yes, how much, to whom, and for which points?

Answer: The Board has recently issued an order eliminating subsidy for points enplaning over 80 passengers per day in FY 1981. Carriers will not be paid for service between these points as of March 29, 1982. The points eliminated by carrier are as follows:

Carrier/Point	Enplanements Per Day
Frontier	
Durango, CO.	112.9
Steamboat Springs/Hayden/Craig, CO.	85.9
Topeka, KS.	119.0
Manhattan, KS.	123.5
Joplin, MO.	139.3
Kalispell, MT.	100.5
Grand Island, NE.	92.1

Carrier/Point	Enplanements Per Day
Farmington, NM.	97.0
Minot, ND.	143.9
Jackson, WY.	118.1
Republic	
Dothan, AL.	174.1
Eglin A.F.B.,FL.	287.8
Panama City, FL.	190.1
Albany, GA.	164.6
Sioux City, IA.	184.0
Monroe, LA.	276.3
Kalamazoo, MI.	283.0
Traverse City, MI.	214.2
Muskegon, MI.	124.9
Marquette, MI.	80.2
Gulfport/Biloxi, MS.	167.8
Columbus, MS.	100.6
Grand Forks, ND.	218.9
Minot, ND.	143.9
Wausau/Stevens Pt., WI.	201.6
Oshkosh, WI.	110.4
La Crosse, WI.	157.3
Republic West	
Grand Canyon, AZ.	371.0
Eureka/Arcata, CA.	149.2
Redding, CA.	139.4
Idaho, Falls, ID.	201.4
Pocatello, ID.	114.2
Twin Falls, ID.	89.2
Lewiston, ID.	85.7
Kalispell, MT.	100.5
Pasco, WA.	327.4
Ozark	
Decatur, IL.	82.7
Sioux City, IA.	184.0
Joplin, MO.	139.3
Columbia, MO.	130.4
Piedmont	
Wilmington, NC.	223.5
Kinston, NC.	132.8
Jacksonville, NC.	118.0
Myrtle Beach, SC.	276.8
Charlottesville, VA.	172.4
Lynchburg, VA.	119.3

We do not anticipate that the elimination of 406 subsidy at points enplaning more than 80 passengers per day will have any major impact on service. The local service carriers' reactions to the recent elimination of 406 subsidy at the points listed above support this belief. To date only one notice to suspend service at an over 80 enplanement per day point has been filed. This occurred at Steamboat Springs/Hayden/Craig, Colorado, where another airline carries the majority of the traffic. We do not anticipate having to pay 419 subsidies at these points.

Question: With regard to the section 406 limitations for the second half of the year, will the $14 million and the $5.5 million limitations referred to above be adequate? If not, what are the current projections for the actual requirements? To what extent will section 419 be used to make up the difference?

Answer: Our current estimate based on established subsidy rates shows less than $14 million for 406 subsidies in the 48 states and $4.2 million in Alaska. Therefore the $14 million and $5.5 million ceilings will be adequate. Under P.L. 97-102, section 419 appropriations could not be used to make up a shortfall in 406 payments if such a shortfall existed. All affected carriers would have to assume a pro-rata reduction in 406 payments if such a situation existed.

EARLY CAB SUNSET

Question: The budget proposal before the Committee assumed a CAB sunset date of January 1, 1985. There is also a proposal now pending before the Congress for an early CAB sunset to begin on January 1, 1983 that would result in the transfer of all continuing functions to the appropriate agencies by the end of fiscal year 1983. If the early sunset provisions are enacted into law, what would be the impact on the FY 1983 funding requirements?

Answer: We don't project any savings since timing is important on capturing dollars, and the Board's proposal does not fix a specific date.

For the sake of argument, let us assume that 400 employees would transfer to DOT after sunset. This is 52 positions under our year-end total of 452 in the FY 1983 budget. Let us also assume that the 52 employees not transferring would leave the Board, on average, three months before the end of the fiscal year. This would create an initial savings of $520,000 in personnel services costs. This figure, however, would be substantially eroded by the terminal leave and severance pay that such an exodus would require. At best, we might save a few thousand dollars from sunset towards the end of FY 1983.

This minor dollar savings suggests that a decision to sunset the Board early should be based almost entirely on program considerations.

PROPOSAL BY PAN AM AND BRANIFF AIRLINES

Question: CAB now has a proposal before it to permit Pan Am to lease all of the Braniff South American routes for the next four years. Pan Am and Braniff have both provided information to the Committee indicating that this proposal would be beneficial to both airlines and would assist them both to reverse their declining economic fortunes.

Eastern and Air Florida have both also filed for some of Braniff's South American routes.

What is the status of the case? When will it be decided? How critical is the Pan Am-Braniff proposal to these two airlines in avoiding a possible bankruptcy for either one of them? Under what circumstances will the final decision on this case need to go to the White House for final determination?

Answer: On March 17, 1982, Pan American World Airways, Inc. (Pan Am) and Braniff Airways, Inc. (Braniff) applied for Board approval under sections 412 and antitrust immunity under section 414 of the Federal Aviation Act of 1958, as amended (the Act), of an "Interim Joint Operating and Service Agreement" (the Agreement) reached by them on March 17; and for the grant of the necessary operating authority to Pan Am under section 416 of the Act. On March 19, the Board issued a Notice calling for answers to the Pan Am-Braniff application and competing applications to be filed on March 26, with replies to the answers and answers to competing applications to be filed April 2.

The Board has received a very large number of filings in response to the Notice and is now analyzing the entire record. Answers have been filed by Air Florida, American Airlines, Capitol International Airways, Eastern Air Lines, Transamerica Airlines, Trans World Airlines, Western Air Lines, the Transportation Workers Union of America, AFL-CIO, the Pan American Master Executive Council, the Braniff Pilots Master Executive Council, the National Airlines Flight Engineers International Association, the City of Houston, the City of Wichita and the Wichita Chamber of Commerce, the Cities and Chambers of Commerce of Dallas and Ft. Worth, the North Texas Commission, the Dallas-Ft. Worth Regional Airport, Mr. Arthur Viksne, the Departments of State and Transportation, and the New York Congressional Delegation.

In addition to Eastern and Air Florida, the following carriers have filed for some or all of Braniff's South American routes: American, Capitol, Continental, Eastern, Transamerica, Western, and Western/Air Florida (joint proposal).

All aspects of the case, both legal and factual, are hotly contested. The issues raised by the parties include whether the proposal would actually be beneficial to or avoid a bankruptcy of either carrier, whether the Agreement is anticompetitive or inconsistent with United States international aviation policies, whether there are less anticompetitive alternatives available to achieve the transportation benefits alleged, whether it should be considered a lease or an indefinite long-term transfer, whether Ashbacker requires contemporaneous consideration of competing applications, and even what provisions of the Act are applicable.

The resolution of the last issue will have a major impact on how the case will be processed and when it will be decided. If, as Pan Am and Braniff allege, the only applicable provisions are sections 412, 414, and

416(b), an oral evidentiary hearing and Presidential review under section 801 are not statutorily required. However, the Departments of State and Transportation urge the Board to submit its decision on the Agreement to the President for review because of its foreign policy implications, even though only the foregoing sections of the Act may be involved.

On the other hand, opponents of the Agreement assert that this case is governed by *Northwest Airlines, Inc., et. al. v. CAB*, 539 F.2d 748 (1976), in which the D.C. Circuit Court of Appeals overturned the Board's decision on the Pan Am-TWA route swap, holding that only emergency relief could be granted under section 416, and that a section 401(g) hearing was required. Opponents also argue that sections 408(a)(2) and 401(h) apply. If the Board decides that sections 401(g) or 408 apply, oral evidentiary hearings will be required before the four year agreement can be acted upon, and if section 401 is applicable, Presidential review under section 801 is mandatory. If the Board agrees with the opponents' legal arguments, it will also have to consider whether the current record warrants *pendente lite* approval of all or part of the agreement. If the Board were to grant or deny interim relief, section 801 review would not be statutorily required.

We are currently digesting the voluminous pleadings, and studying the complex legal and factual issues. The Board is according the matter the highest priority, devoting maximum available staff resources to producing a result that is consistent with the goals of the Act and the requirements of due process on the most expedited basis possible. We hope to resolve at least the threshhold issues and decide how the case should be scoped and processed by the end of April at the latest. Before these questions are answered, it is not possible to say how long an interim or final decision will take. As the matter is still pending, the Board is not in a position to comment on the substantive issues involved.

HEALTH OF THE AIRLINE INDUSTRY

Question: The press is full of stories regarding the declining economic health of the airlines and the increasing prospects of bankruptcies later this year. In fact, the only thing that seems to be holding the banks back from forcing bankruptcy is the lack of a market for used aircraft. What is the prospect for airline bankruptcies later this year?

Answer: Bankruptcies later this year are entirely possible. What can force airlines into bankruptcy is their inability to meet current obligations, particularly to meet their interest and debt repayment obligations. A number of carriers currently have unsatisfactory coverage of their interest payments.

Whether certain major carriers go into bankruptcy in 1982 will depend on:

(1) The extent to which the economy recovers. Airline traffic and profitability are highly related to business activity and a quick and strong recovery could stave off some bankruptcies.

(2) The approach of major carrier lenders. Even though a carrier may not meet its fixed obligations, carrier lenders may impose interest and debt repayment moratoriums rather than force a carrier into bankruptcy. Because of the weak equipment resale market, lenders may feel that their risk is less carrying the airline and hoping for a recovery rather than sending it into bankruptcy. We already have seen examples of this situation.

(3) The carrier's ownership structure. Certain airlines are either part of a holding company structure, are subsidiaries of other corporations or are owned by one or a few wealthy individuals. This is an important consideration in a potential bankruptcy. In the case of one major carrier, for example, recent short term financing was obtained only with the guarantee of its parent. Certain of the smaller airlines are owned by a single or a few wealthy individuals. The poor financial condition of some of these airlines cannot be evaluated in isolation without taking into consideration the financial status and borrowing powers of the individuals as distinct from the airline itself.

(4) Attitude of employees. We have already experienced a wave of employee pay reductions, pay freezes, pay deferrals, and stock payments in lieu of wage payments. Since salaries are the largest single element of operating expense, the attitude of employees toward these "give backs" will be a major factor in staving off a potential bankruptcy. Just how far employees will go in this regard has yet to be fully tested.

SUBCOMMITTEE RECESS

Senator ANDREWS. The subcommittee stands adjourned.

[Whereupon, at 11:20 a.m., Monday, March 29, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 30.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MARCH 30, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:05 a.m. in room 1224, of the Everett McKinley Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Chiles, and Weicker.

DEPARTMENT OF TRANSPORTATION

U.S. COAST GUARD

STATEMENT OF ADM. JOHN B. HAYES, COMMANDANT

ACCOMPANIED BY:
- VICE ADM. ROBERT H. SCARBOROUGH, VICE COMMANDANT
- REAR ADM. PAUL A. YOST, CHIEF OF STAFF
- CAPT. ROBERT E. LARSON, CHIEF, PROGRAMS DIVISION
- CAPT. PAUL E. PAKOS, CHIEF, BUDGET DIVISION

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

This morning we are fortunate to have the head of our Coast Guard, Admiral Hayes, with us.

This happens to be the last time that Admiral Hayes, in a very distinguished career, will testify before the Senate subcommittee—barring some special supplemental or other situation that may occur. He is retiring this summer. We are going to miss him. He has done a fantastic job at the helm of one of the Nation's finest services.

We welcome you here, Admiral, and we will be glad to hear your statement. When you have concluded your statement, a summary of it will appear in full in the record. We can then proceed to questions.

INTRODUCTION OF ASSOCIATES

Admiral HAYES. All right, sir, fine. I will be happy to do that.

Indeed, it is a pleasure to be with you once again, Mr. Chairman. I have with me at the witness table this morning my Vice Commandant, Vice Adm. Bob Scarborough; my Chief of Staff, Rear Adm. Paul Yost;

the Chief of the Programs Division, Captain Larson; and the Chief of the Budget Division, Captain Pakos.

It is my privilege to appear before you to present our request for Coast Guard appropriations for fiscal year 1983. This request is consistent with the President's goal of limited growth in the Federal budget.

The fiscal year 1983 operating expense budget request of $1.51 billion represents an incremental increase of $154 million above the fiscal year 1982 appropriation, excluding supplementals.

Included in this increase is $36 million which was added for medical care costs of Coast Guard active duty personnel and their dependents as a transfer of functions from the Public Health Service. It also assumes a transfer of $27 million from direct funding to reimbursement from other agencies to cover 100 percent of the polar icebreaking support services we provide. The necessary funding has been included in the budget requests for the Department of Defense, the National Science Foundation, and the Maritime Administration.

As you know, the OE segment of the budget is comprised of both reductions and increases. This year's programmatic reductions include some one-time and temporary items and conversion of the polar icebreaking program from direct to reimbursable funding, as I just mentioned.

The increases requested are primarily for the increased cost of doing business plus follow-on funding for prior-year procurements, as is the normal case. The President has stated very clearly that Government has become too large and too expensive, and our 1983 operating expense request is consistent with this philosophy.

Our A.C. & I. request for fiscal year 1983 is influenced by the $766 million available in fiscal year 1982 appropriations and carry over from previous years. In fiscal year 1983 we are requesting an additional $19 million for administration and survey and design costs. This combined total for the 2 years will allow us to obligate $358 million in fiscal year 1983 in addition to the $405 million in obligations planned for the current year.

We plan to procure three high-performance surface craft for drug interdiction activities; commence midlife overhaul programs for our 210-foot cutters and a prototype overhaul on one 378-foot cutter; procure rigid hull inflatable boats; and conduct a shore facility and aids-to-navigation improvement program.

Our research and development request totals $15 million which will enable us to continue work on the more important projects which we have begun in previous years.

We are not requesting any funding for alteration of bridges. The funding which we received in 1982 will permit us to complete all alterations which were started previously.

For retired pay, we are requesting $336 million which includes a $26 million transfer from Public Health Services to pay for medical care for retirees and their dependents.

In Reserve training, we are requesting $50.1 million which will permit us to maintain a selective Reserve level of 10,700.

For the Pollution Fund we are requesting only the $7 million in permanent authority which we received in previous years. For the Offshore Oil Pollution and Compensation Fund and the Deepwater Port Liability Fund we request appropriation of such sums as may be necessary, as opposed to definite amounts. We are requesting $5 million for the National Recreational Boating Safety and Facilities Improvement Fund to be distributed for boating safety purposes.

On other occasions when I spoke to you and this committee I outlined my strategic objectives and indicated where I wanted to take the Coast Guard during my tenure as Commandant. The idea that we are facing budget restraints does not mean that I am in any way abandoning my strategic objectives.

We will continue to stress improvement in the quality of life for our personnel. Pay increases proposed by the administration and passed by the Congress and other benefits such as variable housing allowances have had their desired effects on upgrading the quality of the personnel we are recruiting, and increasing the percentage of highly trained personnel that we are able to retain.

The disability benefits provided Coast Guard auxiliarists who are injured in the line of duty were significantly enhanced last year, as was the Coast Guard's flexibility to provide leased housing for our unmarried seagoing personnel.

Even the series of reductions are consistent with my strategic objective of improving the internal organization and management of the Coast Guard. In fact, many of the changes we intend are management improvements that we would have instituted in time anyway—the current budget situation simply moved us along a little more rapidly than might otherwise have been the case.

One of the President's major thrusts has been regulatory reform. We have been on the learning curve in this area as our responsibilities in maritime regulation have increased dramatically in the past few years. The Clean Air Act, the Federal Water Pollution Control Act, Outer Continental Shelf Lands Act amendments, and Ports and Waterways Safety Act all have contained major responsibilities for the Coast Guard. I think we are learning from our experience.

I am also satisfied that the Coast Guard has been able to have some impact on reducing the burden of Government on business. As you know, a major change in the way we conduct business was initiated with the establishment of a memorandum of understanding between the U.S. Coast Guard and the American Bureau of Shipping. This agreement, signed in June 1981, delegates to ABS major Coast Guard functions of plan review and inspection of commercial vessels under construction, which will be classed by the American Bureau of Shipping. The dialog between the Coast Guard and ABS is continuing and has recently resulted in the signing, on February 1, 1982, of a second memorandum of understanding, regarding acceptance of ABS admeasurement.

I might mention also as an aside, Mr. Chairman, that we have a third underway at the present time which will likewise extend that relationship.

Internationally, U.S. Coast Guard efforts in the IMCO forum have had positive results and will have the effect of placing, from a safety standard viewpoint, new U.S. and foreign flag vessels on a generally equivalent level.

As part of my thrust to develop a cost-effective decision support system I established a new Office of Command, Control, and Communications in May 1981, through the consolidation of Telecommunications, Electronics Engineering, and Information Technology Divisions at headquarters.

I might say again as an aside, Mr. Chairman, although that is an organizational change and I do not normally brag about that sort of thing, I think this is one that is going to see very, very interesting and substantial results in the future.

Senator ANDREWS. Admiral, you "floated" some organizational changes by us earlier this year, if I could put it that way. The changes have been refitted so they work a little bit better.

Admiral HAYES. Yes, indeed.

Senator ANDREWS. But let's not have too many new organizational changes, please.

Admiral HAYES. This one is, I think, a very productive one.

Senator ANDREWS. I think it sounds as though it is totally acceptable.

Admiral HAYES. I count as a significant success the continued acquisition of new replacement aircraft and major cutters, which will improve the Coast Guard's ability to support and maintain its capital plant. These additions will also improve our ability to meet operational requirements in search and rescue and drug and fisheries law enforcement which have undergone considerable growth in the last decade.

I have sought to meet these demands by using existing manpower and equipment supplemented by our aggressive procurement of new replacement aircraft and vessels.

I guess the most pressing problem I have encountered, and a major challenge I leave my successor is to continue to satisfy complex demands on the Coast Guard for services while bringing new equipment on line and allocating available funding for the upkeep of our extensive capital plant. I see that clearly as requiring a great deal of thought by both my successor and the Congress as we do receive those new equipments into the Coast Guard.

PREPARED STATEMENT

This concludes my opening statement, and I will be happy now to answer any questions you may have.

[The statement follows:]

Statement of Adm. John B. Hayes

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I HAVE WITH ME THIS MORNING THE VICE COMMANDANT, VICE ADMIRAL SCARBOROUGH; MY CHIEF OF STAFF, REAR ADMIRAL PAUL YOST; THE CHIEF OF THE PROGRAMS DIVISION, CAPTAIN LARSON; AND THE CHIEF OF THE BUDGET DIVISION, CAPTAIN PAKOS.

IT IS MY PRIVILEGE TO APPEAR BEFORE YOU TO PRESENT OUR REQUEST FOR COAST GUARD APPROPRIATIONS FOR FY 1983. THIS REQUEST IS CONSISTENT WITH THE PRESIDENT'S GOAL OF LIMITED GROWTH IN THE FEDERAL BUDGET.

THE FY 1983 OPERATING EXPENSE BUDGET REQUEST OF 1.51 BILLION DOLLARS REPRESENTS AN INCREMENTAL INCREASE OF $154 MILLION ABOVE THE FY 1982 APPROPRIATION EXCLUDING SUPPLEMENTALS. INCLUDED IN THIS INCREASE IS $36 MILLION WHICH WAS ADDED FOR MEDICAL CARE COSTS OF COAST GUARD ACTIVE DUTY PERSONNEL AND THEIR DEPENDENTS AS A TRANSFER OF FUNCTIONS FROM THE PUBLIC HEALTH SERVICE. IT ALSO ASSUMES A TRANSFER OF $27 MILLION FROM DIRECT FUNDING TO REIMBURSEMENT FROM OTHER AGENCIES TO COVER 100% OF THE POLAR ICEBREAKING SUPPORT SERVICES WE PROVIDE. THE NECESSARY FUNDING HAS BEEN INCLUDED IN THE BUDGET REQUESTS FOR THE DEPARTMENT OF DEFENSE, THE NATIONAL SCIENCE FOUNDATION, AND THE MARITIME ADMINISTRATION.

AS YOU KNOW, THE OE SEGMENT OF THE BUDGET IS COMPRISED OF BOTH REDUCTIONS AND INCREASES. THIS YEARS PROGRAMMATIC REDUCTIONS INCLUDE SOME ONE-TIME AND TEMPORARY ITEMS AND CONVERSION OF THE POLAR ICEBREAKING PROGRAM FROM DIRECT TO REIMBURSABLE FUNDING.

THE INCREASES REQUESTED ARE PRIMARILY FOR THE INCREASED COST OF DOING BUSINESS PLUS FOLLOW-ON FUNDING FOR PRIOR YEAR PROCUREMENTS. THE PRESIDENT HAS STATED VERY CLEARLY THAT GOVERNMENT HAS BECOME TOO LARGE AND TOO EXPENSIVE. OUR 1983 OPERATING EXPENSE REQUEST IS CONSISTENT WITH THIS PHILOSOPHY.

OUR AC&I REQUEST FOR FY 1983 IS INFLUENCED BY THE $766 MILLION AVAILABLE IN FY 1982 APPROPRIATIONS AND CARRY OVER FROM PREVIOUS YEARS. IN FY 1983 WE ARE REQUESTING AN ADDITIONAL $19 MILLION FOR ADMINISTRATION AND SURVEY AND DESIGN COSTS. THIS COMBINED TOTAL FOR THE TWO YEARS WILL ALLOW US TO OBLIGATE $358 MILLION IN FY 1983 IN ADDITION TO THE $405 MILLION IN OBLIGATIONS PLANNED FOR THE CURRENT YEAR.

WE PLAN TO PROCURE THREE HIGH PERFORMANCE SURFACE CRAFT FOR DRUG INTERDICTION ACTIVITIES; COMMENCE MID LIFE OVERHAUL PROGRAMS FOR OUR 210 FOOT CUTTERS AND A PROTOTYPE OVERHAUL ON ONE 378 FOOT CUTTER; PROCURE RIGID HULL INFLATABLE BOATS; AND CONDUCT A SHORE FACILITY AND AIDS-TO-NAVIGATION IMPROVEMENT PROGRAM.

OUR RESEARCH AND DEVELOPMENT REQUEST TOTALS $15 MILLION WHICH WILL ENABLE US TO CONTINUE WORK ON THE MORE IMPORTANT PROJECTS WHICH WE HAVE BEGUN IN PREVIOUS YEARS.

WE ARE NOT REQUESTING ANY FUNDING FOR ALTERATION OF BRIDGES. THE FUNDING WHICH WE RECEIVED IN 1982 WILL PERMIT US TO COMPLETE ALL ALTERATIONS WHICH WERE STARTED PREVIOUSLY.

FOR RETIRED PAY, WE ARE REQUESTING $336 MILLION WHICH INCLUDES A $26 MILLION TRANSFER FROM PUBLIC HEALTH SERVICES TO PAY FOR MEDICAL CARE FOR RETIREES AND THEIR DEPENDENTS.

IN RESERVE TRAINING, WE ARE REQUESTING $50.1 MILLION. THIS WILL PERMIT US TO MAINTAIN A SELECTED RESERVE LEVEL OF 10,700.

FOR THE POLLUTION FUND, WE ARE REQUESTING ONLY THE $7 MILLION IN PERMANENT AUTHORITY WHICH WE HAVE RECEIVED IN PREVIOUS YEARS. FOR THE OFFSHORE OIL POLLUTION AND COMPENSATION FUND AND THE DEEPWATER PORT LIABILITY FUND WE REQUEST APPROPRIATION OF SUCH

SUMS AS MAY BE NECESSARY, AS OPPOSED TO DEFINITE AMOUNTS. WE ARE REQUESTING $5 MILLION FOR THE NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND TO BE DISTRIBUTED FOR BOATING SAFETY.

ON OTHER OCCASIONS WHEN I SPOKE TO YOU, I OUTLINED MY STRATEGIC OBJECTIVES AND INDICATED WHERE I WANTED TO TAKE THE COAST GUARD DURING MY TENURE AS COMMANDANT. THE IDEA THAT WE ARE FACING BUDGET RESTRAINTS DOESN'T MEAN THAT I AM IN ANY WAY ABANDONING MY STRATEGIC OBJECTIVES.

WE WILL CONTINUE TO STRESS IMPROVEMENT IN THE QUALITY OF LIFE FOR OUR PERSONNEL. PAY INCREASES PROPOSED BY THE ADMINISTRATION AND PASSED BY THE CONGRESS AND OTHER BENEFITS SUCH AS VARIABLE HOUSING ALLOWANCES HAVE HAD THEIR DESIRED EFFECTS ON UPGRADING THE QUALITY OF THE PERSONNEL WE ARE RECRUITING, AND INCREASING THE PERCENTAGE OF HIGHLY TRAINED PERSONNEL THAT WE ARE ABLE TO RETAIN.

THE DISABILITY BENEFITS PROVIDED COAST GUARD AUXILIARISTS WHO ARE INJURED IN THE LINE OF DUTY WERE SIGNIFICANTLY ENHANCED LAST YEAR, AS WAS THE COAST GUARD'S FLEXIBILITY TO PROVIDE LEASED HOUSING FOR OUR UNMARRIED SEAGOING PERSONNEL.

EVEN THE SERIES OF REDUCTIONS ARE CONSISTENT WITH MY STRATEGIC OBJECTIVE OF IMPROVING THE INTERNAL ORGANIZATION AND MANAGEMENT OF THE COAST GUARD. IN FACT, MANY OF THE CHANGES WE INTEND ARE MANAGEMENT IMPROVEMENTS THAT WE WOULD HAVE INSTITUTED IN TIME ANYWAY - THE CURRENT BUDGET SITUATION SIMPLY MOVED US ALONG A LITTLE MORE RAPIDLY THAN MIGHT OTHERWISE HAVE BEEN THE CASE.

ONE OF THE PRESIDENT'S MAJOR THRUSTS HAS BEEN REGULATORY REFORM. WE HAVE BEEN ON THE LEARNING CURVE IN THIS AREA AS OUR RESPONSIBILITIES IN MARITIME REGULATION HAVE INCREASED DRAMATICALLY IN THE PAST FEW YEARS. THE CLEAN AIR ACT, THE FEDERAL WATER POLLUTION CONTROL ACT, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS, AND PORTS AND WATERWAYS SAFETY ACT ALL HAVE CONTAINED MAJOR REPONSIBILITIES FOR THE COAST GUARD. WE'RE LEARNING FROM OUR EXPERIENCE.

I'M ALSO SATISFIED THAT THE COAST GUARD HAS BEEN ABLE TO HAVE SOME IMPACT ON REDUCING THE BURDEN OF GOVERNMENT ON BUSINESS. AS YOU KNOW, A MAJOR CHANGE IN THE WAY WE CONDUCT BUSINESS WAS INITIATED WITH THE ESTABLISHMENT OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE U. S. COAST GUARD AND THE AMERICAN BUREAU OF SHIPPING. THIS AGREEMENT, SIGNED IN JUNE 1981, DELEGATES TO ABS MAJOR COAST GUARD FUNCTIONS OF PLAN REVIEW AND INSPECTION OF COMMERCIAL VESSELS UNDER CONSTRUCTION, WHICH WILL BE CLASSED BY ABS. THE DIALOGUE BETWEEN THE COAST GUARD AND ABS IS CONTINUING AND HAS RECENTLY RESULTED IN THE SIGNING, ON 1 FEBRUARY 1982, OF A SECOND MEMORANDUM OF UNDERSTANDING, REGARDING ACCEPTANCE OF ABS ADMEASUREMENT. WE ARE ALSO EXPLORING THE ACCEPTANCE OF WORK PRODUCTS OF CLASSIFICATION SOCIETIES SUCH AS LLOYD'S AND DET NORSKE VERITAS. INTERNATIONALLY, U. S. COAST GUARD EFFORTS IN THE IMCO FORUM HAVE HAD POSITIVE RESULTS AND WILL HAVE THE EFFECT OF PLACING, FROM A SAFETY STANDARD VIEWPOINT, NEW U. S. AND FOREIGN FLAG VESSELS ON A GENERALLY EQUIVALENT LEVEL.

AS PART OF MY THRUST TO DEVELOP A COST EFFECT DECISION SUPPORT SYSTEM, I ESTABLISHED A NEW OFFICE OF COMMAND, CONTROL AND COMMUNICATIONS IN MAY 1981, THROUGH THE CONSOLIDATION OF TELECOMMUNICATIONS, ELECTRONICS ENGINEERING AND INFORMATION TECHNOLOGY DIVISIONS AT HEADQUARTERS. THIS ACTION IMPROVED THE SERVICE'S CAPABILITY TO USE INNOVATIVELY THESE INCREASINGLY SIMILAR INFORMATION TECHNOLOGIES FOR MORE EFFECTIVE MANAGEMENT WHILE MAINTAINING THE NECESSARY SUPPORT FOR TRADITIONAL SYSTEMS AND PERFORMANCE REQUIREMENTS IN THE FACE OF LIMITED RESOURCES. THE PRINCIPAL "BOTTOM LINE" IS IMPROVED SUPPORT FOR COAST GUARD MISSIONS.

I COUNT AS A SIGNIFICANT SUCCESS THE CONTINUED ACQUISITION OF NEW REPLACEMENT AIRCRAFT AND MAJOR CUTTERS, WHICH WILL IMPROVE THE COAST GUARD'S ABILITY TO SUPPORT AND MAINTAIN ITS CAPITAL PLANT. THESE ADDITIONS WILL ALSO IMPROVE OUR ABILITY TO MEET OPERATIONAL REQUIREMENTS IN SEARCH AND RESCUE AND DRUG AND FISHERIES LAW ENFORCEMENT WHICH HAVE UNDERGONE CONSIDERABLE GROWTH IN THE LAST DECADE. I HAVE SOUGHT TO MEET THESE DEMANDS BY USING EXISTING MANPOWER AND EQUIPMENT SUPPLEMENTED BY OUR AGGRESSIVE PROCUREMENT OF NEW REPLACMENT AIRCRAFT AND VESSELS.

THE MOST PRESSING PROBLEM I HAVE ENCOUNTERED, AND A MAJOR CHALLENGE I LEAVE MY SUCCESSOR, IS TO CONTINUE TO SATISFY COMPLEX DEMANDS ON THE COAST GUARD FOR SERVICES WHILE BRINGING NEW EQUIPMENT ON LINE AND ALLOCATING AVAILABLE FUNDING FOR THE UPKEEP OF OUR EXTENSIVE CAPITAL PLANT.

THIS CONCLUDES MY OPENING STATEMENT, AND I WILL BE HAPPY NOW TO ANSWER ANY QUESTIONS WHICH YOU MAY HAVE.

BIOGRAPHICAL SKETCHES

Admiral John B. Hayes, 16th Commandant of the Coast Guard, has a wide variety of experience covering a broad spectrum of mission areas.

During his more than 34 years in the Coast Guard, Admiral Hayes has served in positions of increasing responsibility both ashore and afloat. He has long service at sea, and has held top administrative posts in district offices and at Coast Guard Headquarters. He commanded a Coast Guard patrol division in combat in Southeast Asia. Admiral Hayes was appointed Rear Admiral in 1973, serving as Comptroller of the Coast Guard until 1975. Before assuming his present post, he was Commander of the Seventeenth Coast Guard District, Juneau, Alaska.

The only active duty four star Admiral in the Coast Guard, Admiral Hayes was nominated by the President to his present rank in early 1978. He commands approximately 44,000 Coast Guard military and civilian personnel stationed in the United States and in many overseas locations. These personnel man a wide variety of ships, planes, and shore facilities.

Admiral Hayes was born in Jamestown, New York, and received his early education at Bradford High School, Bradford, Pennsylvania. He is a 1946 graduate of the Coast Guard Academy, New London, Connecticut, with a bachelor of science degree in Engineering. The Admiral also holds a master of science degree in International Affairs from George Washington University. He was awarded the *Secretary of Treasury Commendation Award Medal* in 1962 for the development of a long range plan for replacing aging cutters. As Commander of Division Two of Coast Guard Squadron One in South Vietnam, then Commander Hayes was awarded the *Legion of Merit with Combat* "V" for his part in the prevention of infiltration of supplies, arms and men to enemy forces via the sea. He received two unit awards and two personal awards from the Republic of Vietnam. In recognition of his services as Chief, Planning and Evaluation Staff, Office of Boating Safety, Admiral Hayes was awarded the *Coast Guard Commendation Medal* in 1968.

Later as Comptroller of the Coast Guard he earned the *Meritorious Service Medal*, and, as Commander, Seventeenth Coast Guard District, he earned a second award of the *Legion of Merit*. As Commandant, he has received the *Distinguished Service Medal*.

Admiral and Mrs. Hayes live in the Coast Guard Commandant's quarters in suburban Washington. They have four children, Christie Margaret, John B. II, William B., and Virginia B.

REAR ADMIRAL PAUL A. YOST JR.,

Chief of Staff

Paul Alexander Yost Jr. was born on January 3, 1929, at Philadelphia, Pa., and was graduated from St. Petersburg High School, St. Petersburg, Fla., in 1946. He was graduated from the U.S. Coast Guard Academy, New London, Conn., with a Bachelor of Science Degree in Marine Engineering on June 1, 1951.

He served his earliest tours of duty in the Pacific, first as Gunnery Officer in the USCGC IROQUOIS out of Honolulu, then as Rescue Controller at the Search and Rescue Center of the Group Office at Guam, and next as Executive Officer of the tender USCGC IRONWOOD out of Guam and later Honolulu.

From June 1955 to July 1959, he was stationed at tne Coast Guard Academy as Company Officer. While there he earned a Master of Science Degree in 1959 from the University of Connecticut, Storrs, Conn. During the following two years, he commanded the USCGC AGASSIZ out of Caper May, N.J. In September 1961, he was transferred to Coast Guard Headquarters, Washington, D.C., to serve as Chief, Nuclear Affairs Branch.

In August 1963, he was assigned as a student at the Naval War College, Newport, R.I., and in 1964 received a Master of Arts Degree from George Washington University of Washington, D.C. In June 1964, he became Chief, Readiness Branch at the 12th Coast Guard District office at San Francisco. In October 1966, he assumed command of the USCGC RESOLUTE, based at San Francisco.

From March 1969 to July 1970, he was stationed at Southeast Asia as Task Group Commander, Vietnam, which included duties as Fourth Coastal Zone Advisor and Commander, Gulf of Thailand Surveillance Group, Third Coastal Zone Advisor and Commander, Southern Surveillance Group, and as Senior Advisor to the Vietnamese Navy Third and Fourth Coast Zone Commanders in the administration of personnel and other matters. For those services he ws awarded the Legion of Merit Medal with Combat "V" Device. He received the Silver Star Medal for conspicuous gallantry and intrepidity as Commander of a Task Group of boats carrying Vietnamese troops into combat with the Viet Cong on Operation SILVER MACE II in the Duong Keo River, An Kuyan Province on April 12, 1969. In addition, he received the Vietnamese Cross of Gallantry with two Silver Stars and Order Second Medal.

Upon his return to the States, the then Commander Yost was statined at Coast Guard Headquarters first as Chief, Bridge Branch of the Aids to Navigation Division, and then as Special Assistant to the Chief Counsel from December 1972 to August 1974. At that time he was transferred to Seattle, Wash., where he assumed the dual post of Commanding Officer of the Coast Guard Port Safety Station, and as Captain of the Port of Seattle. In May 1975, Capt. Yost became Chief, Operations Division at the 17th Coast Guard District Office at Juneau, Alaska.

By naminatin of the President in October 1978, and following approval of the Senate, the then Capt. Yost was appointed to the flag officer rank as Rear Admiral.

Subsequently, RADM Yost assumed the post of Commander, 8th Coast Guard District in New Orlean, La. In July 1981 he became Chief of Staff at Headquarters.

Following is a resume of his promotions in rank: Ensign, June 1, 1951; Lieutenant (jg), March 13, 1953; Lieutenant, June 1, 1956; Lieutenant Commander, Feb. 1, 1962; Commander, July, 1966; Captain, July 1, 1972; Rear Admiral, October 1, 1978.

RADM Yost's wife is the former Janice R. Worth of Groton , Conn., a graduate of Mitchell College, New London, Con.. They have five children: Linda L., Paul A., David J., Lisa J., and Christpher J.

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-4035 (Rev. 10-76)

BIOGRAPHICAL STATEMENT

1. *Prepare in triplicate either by typewriter or print*
2. *Send original and one copy to District Public Information Officer for review and forwarding of original to Commandant* (G-APA 83)
3. *Retain one copy for your files.*

REPORTS CONTROL SYMBOL G-APA-8003

TO COMMANDANT (G-APA/83)	DATE 9/6/80
NAME (*Last, first, middle*) LARSON, Robert Earl	RANK/RATE (USCG or USCGR) CAPTAIN, USCG

PRESENT STATION USCG HEADQUARTERS (G-CPA)	DATE REPORTED 7 JUN 80	DUTIES ASSIGNED Chief, Programs Division
HOME ADDRESS 8241 Taunton Place Springfield, Virginia 22152	DATE OF BIRTH 19 SEP 31	PLACE OF BIRTH Rock Falls, Wisconsin
DATE ENTERED COAST GUARD 5 JUL 51	PLACE OF ENTRY New London, Connecticut	RANK/RATE AT TIME OF ENTRY Cadet

FAMILY (*If more space is needed, use "Remarks."*)

	NAME	DATE OF BIRTH	ADDRESS
FATHER	Deceased	▨	
MOTHER	Deceased	▨	
SPOUSE (*Maiden name*)	Barbara Jean Gilbert	▨	8241 Taunton Place Springfield, Virginia 22152
CHILDREN	Amy Marie Larson	22 JUL 63	8241 Taunton Place Springfield, Virginia 22152

HOMETOWN OF SPOUSE Seattle, Washington	DATE OF MARRIAGE 5 AUG 61	SCHOOL OF SPOUSE Colorado College

EDUCATION (*List in order: elementary, high school and college/university.*)

NAME OF SCHOOL	LOCATION	DATE GRADUATED	DEGREE
Clark School	Rock Falls, Wisconsin	May 1945	--
Durand High School	Durand, Wisconsin	May 1949	--
USCG Academy	New London, Connecticut	May 1955	B.S.
Auburn University	Montgomery, Alabama	July 1975	MPA

ATHLETIC AND EXTRA-CURRICULAR DISTINCTIONS

CLUBS AND ORGANIZATIONS MEMBERSHIP

BATTLES, CAMPAIGNS, OR WAR RECORD

DECORATIONS, COMMENDATIONS, OR OTHER SPECIAL SERVICE DISTINCTIONS

Air Medal
USCG Commendation Medal (2)
Unit Commendation Ribbon

COAST GUARD PROMOTION RECORD (*Indicate rank/rate and dates of promotion.*)

ENS - 5/55
LTJG - 11/56
LT - 7/59
LCDR - 7/64
CDR - 8/68
CAPT - 9/75

CHRONOLOGY OF ACTIVITIES

(Start with time you became fully self-supporting and list in order jobs and service assignments to present. Include Coast Guard assignments, service in other Armed Forces or Merchant Marine, listing ships or stations by name and civilian employment. Omit assignments of less than six months' duration unless particularly significant.)

DATE (Mo. & Yr.)		NAME AND LOCATION OF UNIT OR FIRM	POSITION OR BILLET (Indicate title of principal duty.)
FROM	TO		
9/49	7/51	Eau Claire Book & Stationery Co., Eau Claire, Wisconsin	Sales Clerk
7/51	5/55	USCG Academy	Cadet
5/55	3/57	USCGC MACKINAW	1st LT/Student Eng.
3/57	8/58	USN Aviation Training Command	Student Aviator
8/58	10/61	CGAS BARBERS POINT	Personnel Officer
10/61	4/64	CGAS SAN FRANCISCO	Flight Safety Officer
4/64	5/66	CGAS ARGENTIA	Ass't Operations Officer
5/66	6/70	USCG HEADQUARTERS (G-OSR-2)	Aviation Plans & Programs
6/70	5/72	CGAS NAPLES	Commanding Officer
5/72	6/73	Mediterranean Section	COMMEDSEC
6/73	7/74	COMLANTAREA	SAR Officer
7/74	7/75	Air War College	Student
7/75	7/77	CGAS San Francisco	Commanding Officer
7/77	7/78	USCG HEADQUARTERS (G-APA)	Chief, Public Affairs Division
7/78	6/80	USCG HEADQUARTERS (G-CBU)	Chief, Budget Division
6/80	Present	USCG HEADQUARTERS (G-CPA)	Chief, Programs Division

REMARKS *(List general community activities, relatives in service, distinguished relatives, or other information you consider newsworthy. Attach additional sheets if needed. If you have extra clippings of interesting news items that have been printed concerning you, refer to them here and attach.)*

Elected Member - Board of Control - Rhygate Homeowner's Association

PRIVACY ACT STATEMENT

In accordance with 5 USC 552a(e)(3), the following information is provided to you when supplying personal information to the U. S. Coast Guard.

1. AUTHORITY which authorized the solicitation of the information: 14 USC SEC 632.
2. PRINCIPAL PURPOSE(S) for which information is intended to be used: Publicity.
3. THE ROUTINE USES which may be made of the information: Publicity and Promotion.
4. Whether or not DISCLOSURE of such information is mandatory or voluntary (Required by law or optional) and the effects on the individual, if any, of not providing all or any part of the requested information: Disclosure of this information is voluntary and would have no effect on individual.

CONSTRUCTION IMPROVEMENT

Senator ANDREWS. Thank you, Admiral, for an excellent statement.

The 1982 Defense appropriations bill included $300 million to be transferred to the Coast Guard acquisition construction improvement account, making the total amount available $684 million.

In a statement before this committee on February 26, the Department's Assistant Secretary for Budget and Programs said that while the full $684 million had been made available, only $405 million could be obligated in 1982 by the Coast Guard.

The Comptroller General of the United States ruled a few days ago that a deferral of $216,520,000 in A.C. & I. funding should have been but was not reported to the Congress pursuant to the provisions of the Impoundment Control Act.

Why was this deferral not reported?

We will include a copy of the GAO report in the record, Admiral.

[The information follows:]

March 25, 1982

The Honorable Mark Andrews
Chairman, Subcommittee on Transportation
Committee on Appropriations
United States Senate

Dear Mr. Chairman:

In accordance with your request, we have reviewed the proposed treatment by the Administration and the Coast Guard of funds appropriated to the Coast Guard's acquisition, construction and improvement (AC&I) account for fiscal year 1982.

As a result of this review, we have concluded that $216,520,000 in 1982 budget authority provided for the AC&I account is the subject of a deferral of funds within the application of the Impoundment Control Act, 31 U.S.C. 1401, et seq., which has not been reported by the executive branch under the Act.

Enclosed is a copy of our submission to the Congress which reports the deferral in accordance with section 1015(a) of the Impoundment Control Act.

Sincerely yours,

for Milton J. Socolar
Comptroller General
of the United States

March 25, 1982

To the President of the Senate and the
Speaker of the House of Representatives

This letter reports a deferral of $216,520,000 in budget authority provided for the Coast Guard's acquisition, construction, and improvement (AC&I) account which should have been, but was not, reported to the Congress pursuant to the provisions of the Impoundment Control Act, 31 U.S.C. 1401 et seq.

The Department of Transportation and Related Agencies Appropriation Act, 1982, Pub. L. No. 97-102, 95 Stat. 1443 (December 23, 1981), provides $384 million for the Coast Guard's AC&I account. 1/ The Department of Defense Appropriation Act, Pub. L. No. 97-114, 95 Stat. 1574 (December 29, 1981), provided $300 million more for the AC&I account. Thus the total amount of new budget authority provided to the Coast Guard for its AC&I account in fiscal year 1982 is $684 million.

The Coast Guard plans to obligate approximately $405 million from the account in fiscal year 1982, $358 million in fiscal year 1983, and $22.8 million in fiscal year 1984. These amounts include unobligated carryover balances in addition to the $684 in new budget authority for 1982. The amount of anticipated 1983 obligations also includes the Administration's request of $19.2 million in new 1983 budget authority for the AC&I account.

It is our view that a portion of the budget authority which is legally available for the AC&I account in 1982 but which the Coast Guard does not intend to obligate in fiscal year 1982 con-

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1/ This amount results from an initial appropriation of $400 million, 95 Stat. 1443, which was then reduced by $16 million, 95 Stat. 1464.

stitutes a deferral of budget authority within the meaning of section 1011 of the Impoundment Control Act, 31 U.S.C. 1401. Under section 1013 of the Act, 31 U.S.C. 1403, the deferral should have been reported to the Congress in a special message submitted by the President.

CONGRESSIONAL FUNDING OF THE COAST GUARD AC&I ACCOUNT

The President's budget submission to Congress requested $375 million for the Coast Guard's AC&I account for fiscal year 1982. The House Committee on Merchant Marine and Fisheries recommended an authorization level of $425 million. H. R. Rep. No. 97-62, at 13 (1981). The Senate Committee on Commerce, Science, and Transportation recommended an authorization level of $537.2 million. S. Rep. No. 97-45 at 5, 10-21 (1981). In its report, the Senate Committee stated that:

> "The Committee added $162.2 million to the President's request in order to permit continuation of multi-year vessel, aircraft, and shore facility replacements and improvements while commencing a number of essential new programs." Id. at 10.

The report then identified 26 items which were added by the Committee above those requested by the President. The Coast Guard's fiscal year 1982 authorization act, Pub. L. No. 97-136, 95 Stat. 1705 (December 29, 1981), enacted the funding level recommended by the Senate Committee.

The House Committee on Appropriations recommended an appropriation of $391 million. H. R. Rep. No. 97-186, 11 (1981). The Senate Committee on Appropriations recommended in its report, S. Rep. No. 97-253, 65 (1981), an appropriation of $537 million. In the Department of Transportation Appropriation Act the Congress appropriated $384 million, to remain available through fiscal year 1986.

However, in the DOD Appropriation Act, Pub. L. No. 97-114, 95 Stat. 1565, 1574 (December 29, 1981), the Congress appropriated an additional $300 million for the Coast Guard's AC&I account. 2/ This amount was added by the Senate Committee on Appropriations. S. Rep. No. 97-273, 81-83 (1981). In its report, the Senate Committee on Appropriations stated:

> "The Committee recommends an appropriation of $300 million to supplement the capital investment program of the U.S. Coast Guard. There was no budget estimate for this initiative.
>
> "This funding is established with a provision for its immediate transfer to the U.S. Coast Guard, thus insuring Coast Guard participation in the expansion and modernization of military aircraft, vessels, and equipment. * * *" Id. at 82.

The Committee went on to state that while this action resulted in an appropriation level that was still less than the amount

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2/ This appropriation was made under the heading "Shipbuilding and Conversion, Navy," for allocation to the Coast Guard's AC&I account.

initially requested by the Coast Guard in the fiscal year 1982 budget formulation process, the Committee recommendation would help correct serious deficiencies identified by the Committee in the Coast Guard's capital program.

COAST GUARD SPENDING PLANS

The Coast Guard has devised a plan to utilize the funds already provided by Congress for the AC&I account over fiscal years 1982, 1983, and 1984. The Coast Guard plans to obligate approximately $405 million in fiscal year 1982 of the total amount of budget authority available to it. It does not expect to obligate approximately $306 million of the 1982 budget authority now available to it until fiscal year 1983.

We reviewed various documents and interviewed cognizant Coast Guard officials in order to ascertain whether the Coast Guard's plans for use of the funds now available to it in the AC&I account involve any impoundment actions. Our review focused on the $306 million of the fiscal year 1982 budget authority that the Coast Guard indicates will not be obligated until fiscal year 1983.

The information available to us shows that this $306 million in anticipated obligations falls into two basic categories. The first category consists of amounts that are being applied to fiscal year 1982 requirements, but where it does not appear that obligations actually will be incurred during fiscal year 1982 for various program-related reasons. An example is the Coast Guard Cutter GLACIER maintenance project, for which the Coast Guard anticipates $6.5 million in fiscal year 1983 obligations. The Coast Guard expects to advertise the bid package in August of 1982, but does not expect to make an award until November of this year. Based on our preliminary analysis of information provided us by the Coast Guard, we are satisfied that the funds made available for this project, and the other projects in this category, are not being impounded. To the extent that obligations will not be incurred for these projects during fiscal year 1982, this results from normal programmatic considerations and does not involve formal or de facto impoundments.

However, we also have identified a large portion of the funding now available for fiscal year 1982 which the Coast Guard has not attempted to obligate. This category consists of a total of $216,520,000 in funds programmed for the Medium Endurance Cutter (WMEC) acquisition, the Medium Range Search (HU-25A) Aircraft, and the Short Range Recovery Helicopter procurement. A detailed breakdown of the Coast Guard's plans for these funds is presented in the enclosure to this report. In summary, while funds are being obligated for these projects in 1982, additional funds programmed for the projects are being held for application to (1) 1983 contract actions related to the projects such as spare parts, retrofitting and acquisition of additional items, and (2) 1983 cost escalation under the contracts. We understand that it is the Coast Guard's normal practice to fund these types of costs from appropriations made in the year the costs are incurred. Thus a portion of the current year funding normally would not be held for application to the subsequent year's contract actions or escalation. Further, we understand from our discussions with Coast Guard officials that these funds are being held for application to 1983 requirements in view of the Administration's request of only $19.2 million in new 1983 budget authority for the AC&I account.

COAST GUARD DEFERRAL OF FUNDS

We conclude that the $216,520,000 amount of the AC&I account described above has been subjected to a deferral of budget authority within the application of the Impoundment Control Act. Since the executive branch has not reported this deferral, we are now reporting it to the Congress in accordance with section 1015(a) of the Act, 31 U.S.C. 1405(a).

Section 1011(1) of the Impoundment Control Act, 31 U.S.C. 1401(1), defines "deferral of budget authority" to include--

> "(A) withholding or delaying the obligation or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or
>
> "(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority * * *."

Based on our review, it is clear that the Coast Guard has made a conscious decision to withhold the application of the $216,520,000 in order to offset fiscal year 1983 requirements that cannot be met under the Administration's $19.2 million budget request for 1983. This is not an illegal action on the part of the Coast Guard, and it may be prudent from the Coast Guard's viewpoint. Nevertheless, this action falls squarely within the definition of a deferral of budget authority under the Impoundment Control Act.

We note that the Coast Guard's AC&I account has been the subject of previous deferrals reported by the executive branch under the Impoundment Control Act when the executive branch sought to delay the application of multi-year funding from one year to the next. One recent instance was D80-59, reported in the President's seventh special message for fiscal year 1980 (April 16, 1980), which deferred $33.8 million in the AC&I account. This deferral was based on reducing the number of Coast Guard vessels to be procured during fiscal year 1980 under "Project 1201" from five to four. Procurement of the remaining vessel was postponed until the succeeding fiscal year in order to reduce fiscal year 1981 outlays. 3/

The deferral in the present case has not been accomplished through a formal reserve of funds at the Office of Management and Budget or at any other executive branch level. Nevertheless, the effect is the same as if a formal reserve had been established. As discussed above, the fundamental effect of the Coast Guard's plan for the $216,520,000 is to defer the application of these funds made available for use in 1982 to meet 1983 requirements.

APPLICATION OF THE IMPOUNDMENT CONTROL ACT

Section 406 of the DOT Appropriation Act, 95 Stat. 1466, alters the normal operation of the Impoundment Control Act for purposes of the accounts specified in section 406, including the AC&I account. Section 406 states in pertinent part:

> "Notwithstanding any other provision of law, or of this Act, any proposal for deferral of budget authority under section 1013 of the Impoundment Control Act of 1974 (31 U.S.C. 1403) with respect to budget authority for expenses related to * * * Acquisition, construc-

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3/ Also see deferrals D78-21 and D77-23, which likewise involve postponing the use of multi-year budget authority.

> tion, and improvements * * * shall, upon transmittal to the Congress, be referred to the House and Senate Committees on Appropriations and any amount of budget authority proposed to be deferred therein shall be made available for obligation unless, within a 45-day period which begins on the date of transmittal and which is equivalent to that described in section 1011 (3) and (5) of the Impoundment Control Act of 1974 (31 U.S.C. 1401 (3) and (5)), the Congress has completed action on a bill approving all or part of the proposed deferral."

Thus section 406, in effect, applies the procedural aspects of the Impoundment Control Act normally applicable to proposed rescissions to any deferrals submitted for the specified accounts.

Under section 1015(a) of the Impoundment Control Act, 31 U.S.C. 1405(a), a special impoundment message from the Comptroller General has the same effect as if the message had been submitted by the President. Accordingly, by application of section 406 of the DOT Appropriation Act, the 45-day period begins on the date this message is transmitted to the Congress. If Congress fails to complete action on a bill approving all or part of this deferral within the 45-day period, the Coast Guard then will be required to make the funds available for obligation at that time. We estimate the 45-day period to expire on May 27, 1982.

Milton J. Socolar
for Comptroller General
of the United States

FISCAL YEAR 1982 FUNDS DEFERRED IN COAST GUARD ACQUISITION CONSTRUCTION AND IMPROVEMENT ACCOUNT

PROJECT	AMOUNT PROGRAMMED FOR PROJECT	AMOUNT DEFERRED FOR 1983 REQUIREMENTS	BREAKDOWN OF AMOUNT DEFERRED
Medium Endurance Cutter (WMEC)	$270,030,000	$ 99,700,000	$24,400,000 - escalation 75,300,000 - contract-related costs (spare parts, outfit items, potential for change orders, retrofits)
Medium Range Search (HU-25A) Aircraft	44,430,000	9,600,000	4,448,000 - escalation 5,027,000 - contract-related costs (spare parts, support equipment) 125,000-administration
Short Range Recovery Helicopter	214,340,000	107,220,000	22,342,000 - escalation 37,022,000 - contract-related costs (spare parts, provisioning) 46,400,000 - 12/1/82 option for procurement of 21 additional helicopters 253,000-administration 1,203,000 - training support
	TOTAL	$216,520,000	

DEFERRING OF FUNDS

Admiral HAYES. Of course, Mr. Chairman, I am aware of the report and we are currently working—right now—with the Department to develop the actual obligational program that will be applied, should the Congress reject the notion that we can defer the funds in the fashion that GAO had identified.

Senator ANDREWS. You say that you are working to obligate it, rather than defer it?

Admiral HAYES. We are working right now with the Department to have in place a program to obligate in the fashion that the Congress intends, depending upon the action of the Congress with respect to the deferral.

My understanding, Mr. Chairman, is that this requires affirmative action on the part of the Congress, at which time we would then have to go ahead and develop a new obligation plan.

Senator ANDREWS. Well, section 406 of the Fiscal Year 1982 DOT Appropriations Act, alters the normal operation of the Impoundment Control Act for purposes of the accounts specified in section 406, including the A.C. & I. account.

Under the operation of that section, the Coast Guard will be required to make these funds available no later than May 27.

Admiral HAYES. Yes, sir.

Senator ANDREWS. Senator Chiles and I are offering a disapproval resolution to speed the availability of the funds, as you know.

Admiral HAYES. Yes.

Senator ANDREWS. Given the findings of the General Accounting Office, I assume you now intend to obligate these funds this year.

Admiral HAYES. As promptly as we can. I would point out to you, Mr. Chairman, that with the time remaining, as a practical matter I will probably not be able to obligate all those funds. But at least we will have our intentions clearly stated as to what projects they will be obligated for, and we will be proceeding as rapidly as possible to do just that.

Senator ANDREWS. Can you provide the committee with a detailed plan of how your A.C. & I. funds will be used in fiscal 1982 and 1983? You can provide that for the record.

Admiral HAYES. Yes, sir. We will as soon as we get clearance from the Department, yes, sir.

Senator ANDREWS. Well, we want it in time to fill out this record, Admiral. Obviously, you must have the plans on how you are going to obligate it because you just said that you are planning to obligate.

Admiral HAYES. I will provide it promptly to the committee, sir.

[The information follows:]

D67/A20

U. S. COAST GUARD
Acquisition, Construction, and Improvements
Amount By Activity
($000)

	Total Avail. for Obligation (1)	Planned Obligations FY 1982 2/ (2)	FY 1983 (3)	Outyears (4)
Unobligated balance carried forward	75,265 1/	25,428	32,407	17,430
FY 1982 /1983 Program: 2/				
I. Vessels:				
A. Acquire vessels:				
1. Medium Endurance Cutter (WMEC) Acquisition	270,030	170,000	100,030	...
2. Survey and Design - vessels	600	600	...	...
3. High Performance Surface Craft	18,000	...	14,100	3,900
4. Rigid Hull Inflatables	8,000	6,200	1,800	...
B. Repair, renovate, or improve existing vessels:				
1. WLB Renovation (SLEP)	9,000	9,000	...	...
2. Commence 378-foot WHEC FRAM	15,000	...	15,000	...
3. 210-foot WMEC FRAM	7,000	...	7,000	...
4. USCGC GLACIER - Major Maintenance Availability	7,270	...	6,500	770
Subtotal, vessels	334,900	185,800	144,430	4,670
II. Aircraft:				
A. Acquire new aircraft and increase aviation capability:				
1. Medium Range Search (HU-25A) Aircraft Contract Escalation	44,430	34,830	9,600	...
2. Short Range Recovery Helicopter Procurement	214,340	107,120	107,220	...
3. Flight Simulators for MRS and SRR	1,800	1,200	600	...
4. Automatic Test Equipment - Phase II	1,690	690	1,000	...
Subtotal, aircraft	262,260	143,840	118,420	...
III. Shore facilities:				
A. Acquire, repair, replace, renovate, improve, and support existing and future shore and shore-based facilities:				
1. Minor AC&I Shore Construction Projects	10,880	4,770	6,110	...
2. Rockland, ME - Rebuild Station - Phase II	1,660	1,660	...	...
3. Public Family Quarters	8,690	4,190	4,500	...
4. Support Center Portsmouth - Shoreside Support for 270-foot WMECs	2,000	2,000	...	...
5. New London, CT - Academy - Renovate and Expand Engineering Building - Phase III	1,720	1,720	...	...
6. Support Center Kodiak - Rehabilitate Auto Repair Shop	660	660	...	...
7. Support Center New York - Logistics Support Facility - Phase II	2,130	2,130	...	...
8. Houston/Galveston, TX - Vessel Traffic Service - Restore Surveillance Capability	1,000	600	400	...

U. S. COAST GUARD
Acquisition, Construction, and Improvements
Amount By Activity
($000)

	Total Avail. for Obligation (1)	Planned Obligations FY 1982 2/ (2)	FY 1983 (3)	Outyears (4)
III. Shore Facilities (Cont.):				
A. Acquire, repair, replace, renovate, improve, and support existing and future shore and shore-based facilities:				
9. Sabine, TX - Renovate Station Building and Replace Bulkhead	3,890	1,000	2,890	...
10. Brooklyn, NY - Supply Center Computer Acquisition	1,300	1,300	...	...
11. Electronic Equipment Replacement	2,000	2,000	...	...
12. COMDAC Support Facility	3,000	...	3,000	...
13. Support Center Boston - Engineering Maintenance Support (EMS) Facility	6,000	6,000	...	...
14. Survey and Design - Shore Facilities	3,300	3,300	...	...
15. Prince William Sound (Valdez, AK) VTS Communications	950	...	400	550
16. Support Center Kodiak - Personnel Activities Center.	17,000	...	17,000	...
17. High Performance Surface Craft Shore Support	3,000	180	2,820	...
Subtotal, shore facilities	69,180	31,510	37,120	550
IV. Aids to Navigation:				
A. Repair, replace, renovate, or improve existing facilities:				
1. LORAN-C Improvement Plan	3,000	3,000	...	...
2. Yap/Marcus Island - Replace LORAN Towers	3,030	...	3,030	...
3. Waterways Aids to Navigation	4,000	1,700	2,150	150
4. Lighthouse Automation and Modernization (LAMP)	2,450	1,597	853	...
Subtotal, aids to navigation	12,480	6,297	6,033	150
V. Administration & Engineering Logistics	12,125	12,125	...	...
Support (Survey and Design, Administrative and Engineering Logistics) For FY 1983	19,200	...	19,200	...
Subtotal available for obligation	785,410	405,000	357,610	22,800

The following projects are under joint consideration by Coast Guard, OST and OMB:

	Total Avail. for Obligation (1)
1. WPC Prototype	10,000
2. Six WPB's for Caribbean Operations	36,000
3. Shore Support for WPB's	2,000
4. PILOC four HC-130's	64,200
5. Forward-Looking Infra Red (FLIR) - PH I	25,200

D67/A22

U. S. COAST GUARD
Acquisition, Construction, and Improvements
Amount By Activity
($000)

	Total Avail. for Obligation (1)
6. COMDAC Support Facility	6,700
7. ATF Repairs	5,800
8. Command and Control Equipment	11,000
9. WLB SLEP LLTM	2,500
10. Yorktown Berthing and Classrooms	11,200
11. SUPRTCEN New York Ferry Slip	1,300
12. MSIS Equipment	8,200
13. HC-130 FLAR	13,100
14. Vessel Nav/Com Modifications	7,000
15. Additional Rigid Hull Inflatables	3,000
16. Administration, Survey and Design	9,320
Subtotal	216,520
Grand Total, FY 1982/83 Programs 3/	1,001,930

1/ Excludes $6,945,000 of unobligated balances proposed to be reprogrammed and included in the "FY 1982 program".

2/ The FY 1982 funding will include $684,000,000 in new budget authority plus $6,945,000 of proposed reprogrammings of prior year funds, for a total of $690,945,000.

3/ Includes $300,000,000 provided in the DOD appropriation act.

STATION CLOSURES

Senator ANDREWS. Admiral Hayes, on February 26 you and Secretary Lewis appeared before this subcommittee, testifying that the administration would support a 1982 supplemental appropriation of $15.5 million in order to avoid reductions in operations and certain station closures.

To date, however, we have not received any such formal request. Do you plan to submit a formal supplemental appropriations request to the Congress for that $15.5 million?

Admiral HAYES. My understanding with respect to that, Mr. Chairman, is that the Secretary is quite prepared to accept the increase in funding. But I also understand that the administration has not actually planned to submit a supplemental request for those specific funds.

Senator ANDREWS. Well, you know, that leaves the committee in one of those interesting positions. You and the Cabinet Officer responsible told us a little over 5 weeks ago that the administration—we assume that means the fellow who lives at the other end of Pennsylvania Avenue and his Office of Management and Budget—were going to support this supplemental. That supplemental, of course, alleviated a number of the concerns held by Members of the Senate—both sides of the political aisle—and especially Members of the Senate on this subcommittee.

Now you are saying that $15.5 million might not be submitted. What do we do, go back to square one?

Admiral HAYES. I think the administration because a number of bills had already been submitted with respect to that supplemental, simply decided not to take further action and would not object to those funds being appropriated, Mr. Chairman.

Senator Hollings, for example, did sponsor a $46 million supplemental which was supported by Secretary Lewis.

Senator ANDREWS. I grant you that, but this gets us into one of those catch-22 situations where the President has one budget, the committee has another budget.

As you know, the Budget Committee—on which I also serve—will be looking over our shoulders. We had anticipated that this request would come in the President's budget so that we would not have to short other parts of our budget in order to accomplish what both the administration and the Congress had agreed to for the Coast Guard.

Now, all of a sudden you are indicating to us that those people downtown have decided that they are not going to send up this formal request. That contradicts the testimony that both Secretary Lewis and you gave the committee over 1 month ago.

Is there any reason? It is nice to come up and say, "You fellows go ahead and spend the money, we are not going to object to it," but that is a far cry from the, "We will include it in our budget" statement that we got a little over 1 month ago.

I recognize the spot you are in, Admiral.

Admiral HAYES. That is my problem, Mr. Chairman.

Senator ANDREWS. I know.

Admiral HAYES. Obviously, I would be quite prepared to submit such a supplemental.

Senator ANDREWS. I have been on this side of the table for 16 or 17 years—in Democratic administrations and Republican administrations—and have seen witnesses come up and tell us about what they would like to do and what ought to be done. Then they talk about the "spooks"—whoever they might be—currently inhabiting the Office of Management and Budget, who precluded them from doing what they thought was right.

But since this contradicts a statement that you both made 5 weeks ago, it further complicates the issue.

In essence what you are telling the committee now is that the Office of Management and Budget and/or the White House has made inoperable the statements that you and Secretary Lewis made 5 weeks ago.

Admiral HAYES. I cannot say that as a matter of fact, Mr. Chairman, as you well recognize.

Senator ANDREWS. But the point is, you cannot sit there now and tell us that they are going to submit a supplemental appropriation for $15.5 million under the umbrella of their budget estimate, which is what you did in fact tell us would be done 5 weeks ago.

Admiral HAYES. No; certainly, I can tell you from the Coast Guard's standpoint, we are keeping up our end of the game. We are keeping those facilities open.

Senator ANDREWS. I appreciate that a lot. The problem is that we have this ball bouncing around right now. When we start these tradeoffs between the amount of money that is allocated this subcommittee and the amount of money that we have to apportion among the separate branches, we are going to end up—if this charade keeps going—$15.5 million short of budget authorization.

At that earlier hearing you agreed the funds should be provided in 1982 to end the problems of cutbacks and station closure. However, fiscal 1983 looms ever closer and your current 1983 budget request includes no funds to continue those operations.

Do you plan to revise your 1983 request to include funds for the continued operation of certain Coast Guard stations and programs?

Admiral HAYES. Yes, sir. We are working with the administration, specifically with the Department people, right now on an amendment for that purpose.

Senator ANDREWS. Well, if so, when can we expect to have these revised estimates? You are now appearing before us to support your 1983 appropriations and you are saying that you are going to be coming up with some revised estimates, which I assume you do not have now.

Admiral HAYES. I will get them to you, Mr. Chairman, as soon as I can have them cleared by the Office of Management and Budget.

Senator ANDREWS. Can you provide them for the record in a timely form at this particular hearing, or are we going to have to hold a subsequent hearing and go through it all again, where I can rewelcome you to your swan song appearance once again?

Admiral HAYES. We are working with them right now on that, Mr. Chairman. I really think I can get them to you fairly rapidly.

Senator ANDREWS. Good. We will be checking, of course, your time schedule with the time schedule of finishing this one.

If it is not available, the final approved form, at the time that this record needs to be completed, if you could provide a draft of your request to OMB, that might give us the insight that we need.

Admiral HAYES. All right, sir, I would be happy to provide that.

Senator ANDREWS. I know the sticky problem on doing that, but you also realize the problems we are involved in.

Admiral HAYES. Yes, indeed.

Senator ANDREWS. We need to have something that we can put together.

DRUG INTERDICTION

Earlier this year, Attorney General Smith held a press conference, announcing the success of Operation TIBURON, an international, intergovernmental marihuana interdiction operation, in fact.

In this operation I understand that over 6.04 million pounds of marihuana were seized. Admiral Hayes, can you outline for us what the Coast Guard's role was in this operation and what resources were dedicated to it?

Admiral HAYES. Basically, our role throughout the entire operation, Mr. Chairman, was that which we had been playing beforehand. Of course, it was to interdict the flow of drug traffic by sea, in the maritime arena, principally in the Caribbean and adjacent waters.

The combined operation was one of the most successful ones I think we have had to date. It certainly demonstrated the substantial cooperation and coordination among the various enforcement agencies of the Federal Government as well as State and local enforcement agencies.

We credited about 1.7 million pounds of marihuana seized at sea, and about 4.7 million pounds seized by the Government of Colombia to that overall operation. So, it was indeed a very successful one.

Likewise, we had a substantial increase in the provision of intelligence, particularly toward the latter part of Operation TIBURON, by the Department of Defense agencies providing that kind of information, as well as DEA and Customs. So, I think it was a fine example of interagency, Federal, State, and local cooperation and coordination.

Senator ANDREWS. The overall marihuana drug market in the United States has been estimated to be between 23 and 34 million pounds per year. How does this compare with the volume of marihuana the Coast Guard is able to seize, what percentage of that do you get?

Admiral HAYES. Based upon our best estimates we think we are somewhere between the 10- and 20-percent level.

Senator ANDREWS. Does most of that estimate come by sea, do you think?

Admiral HAYES. Most of the marihuana. Obviously, we are talking about marihuana almost exclusively when one talks about trafficking at sea. Cocaine, heroin, and other drugs are for the most part traveling by air or some other means, occasionally perhaps by passenger vessel. But as far as we know, not too much of the harder drugs are actually traveling by sea.

Senator ANDREWS. The principal suppliers of marihuana in this country, as I understand, are Colombia, Mexico, and Jamaica. Is the Coast Guard involved in any administrationwide program to work with the governments of these nations to limit the amount of marihuana grown and exported to other nations, or is that totally within the purview of the Department of Justice?

Admiral HAYES. No; I, over the past 4 years, Mr. Chairman, have visited Colombia personally, Mexico personally, and we have had Coast Guard people in Jamaica as well, and also had them visit us.

We really have fairly close relationships with the people who can help us do something about interdicting the flow of those drugs by sea. I think it has been fairly successful. We do, of course, work through the Department of State and our Embassies overseas.

I might also add that depending upon the flag of the vessel subject to seizure, we are working through our State Department and its Embassies in various countries in order to get authority by that country to seize one of their flag vessels—to board first, of course, and seize if in violation.

So, that has been a real success story. For the most part now we have very excellent cooperation from the different nations involved.

NAVAL VESSELS IN DRUG INTERDICTION

Senator ANDREWS. Recently, as I understand it, Admiral, the Posse Comitatus Law was amended to allow U.S. naval vessels to be used in the search for illegal drug traffickers.

What is that law, what has been its effect on drug interdiction activities in the gulf and the Caribbean; what is the nature of your working relationship on this with the Navy?

Admiral HAYES. Well, first of all, I think it is excellent. We have had direct discussions, we briefed the Chief of Naval Operations. He has placed emphasis upon cooperation with the Coast Guard through his operating forces. I think that the effect has been pretty good.

Now, the principal change that occurred when the Posse Comitatus Law was amended this past year was in the direction of encouraging the provision of intelligence information to a greater degree than had been the case in the past. That has occurred.

The Navy had not actually been—except by policy—under the umbrella of the Posse Comitatus Act itself. As a matter of current policy, the Secretary of Defense and the Secretary of the Navy are putting in place a way in which naval vessels might occasionally be used with Coast Guard personnel on board to try to increase the available resources to interdict drug traffickers at sea.

Senator ANDREWS. Does this Navy involvement in drug interdiction activities reduce the burden on the Coast Guard, both in terms of personnel and equipment, your budgetary resources?

Admiral HAYES. Well, I would anticipate, Mr. Chairman, having talked to Admiral Hayward about this, that they will be using vessels of opportunity. I do not anticipate that it is going to have a major impact upon the demands upon Coast Guard resources. No, sir.

Senator ANDREWS. In other words, these naval vessels would happen to be in a certain area as part of their normal mission. The Coast Guard gets a report that suspicious ships are in that area. Then the Navy ship responds because of their particular station at that point in time.

Admiral HAYES. As you can imagine, Mr. Chairman, it would get to be a rather expensive proposition to be using destroyers and vessels of that degree of sophistication and cost solely for the purpose of drug interdiction. It would not make sense, really, to do that. It would be better to put those kinds of dollars in the Coast Guard's hands.

Senator ANDREWS. That is what we have been trying to do.

This committee wants you to build some more of those cutters and build them rapidly, to do just that because we think it is important. But we also think that it is extremely important to employ all of the resources that we have in this interdiction attempt.

When the Navy does this, are they under your nominal control? By "control" I mean in a little different way, but do you in effect target and transmit to the Navy the suspicious ship, and do they then move on your recommendation; or are they just out there and they happen to see somthing that your people have not seen?

Admiral HAYES. What we have arranged with the Navy in this circumstance, Mr. Chairman, would be that for purposes of that law-enforcement mission, a naval vessel would be under the operational control of our district commander in Miami, the Commander of the 7th Coast Guard District.

They would remain under the command of the Fleet Commander for whom they are normally operating, but for the purpose of that specific mission assignment, and in order to manage such things as the use of force and all of the intricacies that we have involved in that sort of law-enforcement operation, they would come directly under the operational control of that Coast Guard district commander.

Senator ANDREWS. So, it is a totally dovetailed operation, they in fact supplement your normal operation and are able to utilize all of the information and data that your people have.

Admiral HAYES. Precisely. A good example of the way that can work very effectively, of course, was the Cuban operation of a couple of years ago now, during which we did have some naval vessels under our operational control.

In fact, I kidded my good friends in the Navy about that. To my knowledge that was the first time in peacetime the Coast Guard had—under rather limiting circumstances—command of naval vessels. It worked extremely well.

Senator ANDREWS. Well, you always said that you have the talent in the Coast Guard. If they give you the assets, you can do great things with them.

ENFORCEMENT OF FISHING LAWS

Many people are concerned, Admiral, that in response to the increased flow of illegal drugs and aliens into this country the Coast Guard will have to decrease its enforcement of fishing laws.

Will there be a reduction in this program area, given existing resources? What do you foresee may result from that?

Admiral HAYES. Given the fact that we have not identified any additional ship resources, except those that we temporarily acquired in the aftermath of the Cuban operation that are presently stationed down in the 7th District, we have, with the increased drug interdiction activity, indeed had to reduce some of our fisheries efforts, particularly in the Atlantic.

I think that will continue to occur to some degree as long as we have to place as high a priority as we currently are on the drug interdiction function.

Senator ANDREWS. But you are totally aware of the obligation you have under the fishing treaties?

Admiral HAYES. Absolutely. Of course, we have not abrogated that. For example, just the other day in my morning staff briefing I noted that we did have on fisheries patrol two vessels in the Atlantic off Cape Cod. So, we have not entirely abrogated that responsibility, do not misunderstand me, Mr. Chairman, we have just reduced the level of operations with respect to that.

USER FEES

Senator ANDREWS. Your new user fee proposal will call for the recovery of 100 percent of certain allocable costs that you recovered by the end of 1983.

By your estimates, this amounts to approximately $800 million in 1982 dollars. Can you tell us what program areas are specifically being targeted for user fee collection?

Admiral HAYES. Yes, sir. All of the Coast Guard missions except law enforcement and military readiness would be involved in the calculation of user fees. I think you should be aware that over this past year, since the first piece of legislation and sample fee schedules were shown to a Coast Guard Subcommittee of the House Merchant Marine and Fisheries Committee, we have been interacting to a very substantial degree with industry, with boating people, and with the various interest groups who would be affected.

As a result of those interactions you will find that, once the bill is cleared by OMB—and we expect that to happen within the next couple of weeks, there have been some substantial changes. There are some reductions in the proposed fee schedules.

Senator ANDREWS. Well, the latest fee schedule we have, of course, is the original one that you sent up.

Admiral HAYES. Yes, sir. That has changed substantially.

Senator ANDREWS. We do not have a whale of a lot of navigable waters in North Dakota—that is probably why I can be about as objective as anybody in the Senate on Coast Guard operations—but it still bewilders me that with regard to the type of craft that we might use in North Dakota, a rowboat, you are scheduled to get $110 in fees. This $110 for a 16-foot rowboat strikes me as being just a little bit high.

Admiral HAYES. We think so too, Mr. Chairman, and that has been changed.

Senator ANDREWS. So, that has become inoperable. But we do not know yet what the fee schedule for a 16-foot rowboat is going to be?

Admiral HAYES. I obviously cannot tell you right now, but I think it will be one—if there is one indeed—that would be acceptable, or at least more acceptable.

Senator ANDREWS. Can we get the draft of those new fee schedules by the time we close the record, Admiral?

Admiral HAYES. Probably, Mr. Chairman. It obviously depends solely on when it is cleared by the administration. But my understanding is that it is imminent.

Senator ANDREWS. Well, I happen to have a real hobby of sailing on weekends, and I have a 20-foot sea sloop, you know, a flat-bottomed faster-than-scat-type thing. I hate to think I of having to pay $110 for running that around a lake.

When I get out on Lake Sakakawea, we even occasionally have some offshore cruisers, sailing vessels, that do a neat job. They, of course, get into the 30-foot category. For those kinds of sailboats we are going to have to pay a $200 fee schedule, according to this.

So, you may think we are awfully inland and far removed from the Coast Guard, but let me assure you that we are interested and I am darned concerned when you start taking care of the size boats that we use up in North Dakota for this kind of fee schedule.

Admiral HAYES. Mr. Chairman, my Chief of Staff informs me we have, just in the process of interacting with the various interest groups, passed out these proposed fee schedules. So, we can certainly let you have immediately, at least the numbers that we most recently have been working with.

Senator ANDREWS. What is the number for a 16- to 26-foot boat?

Admiral HAYES. A 16-foot inland is $4, Mr. Chairman.

Senator ANDREWS. Not less than 16, 16 to 26-foot inland?

Admiral HAYES. I think that runs up a little bit beyond the $4, but at least I think it is in the reasonable range.

[CLERK'S NOTE.—The following information was provided subsequent to the hearing.]

MAY 7 1982

SCHEDULE A - RECREATIONAL BOATING	Estimated FY83 Cost in 000's	
I. SERVICES		
a. Search and Rescue services of non life-threatening potential	$20,600	($10,500)
b. Commercial Vessel Safety services to investigate boating accidents	900	($ 450)
c. Recreational Boating Safety services of boating law enforcement, training of federal and state boarding officers, issuing permits and coordination of regatta patrols, liaison with states and safety organizations, and support of volunteer Coast Guard Auxiliary	43,900	($22,000)
d. Port Safety and Security services to assure port, harbor and waterway safety	1,100	($ 550)
e. Marine Environmental Protection services to assure compliance with federal regulations	3,000	($ 1,500)
TOTAL	$69,500	($35,000)

II. DEMONSTRATION FEE SCHEDULE - ANNUAL FEE

Class	Number	Fee	Amount (000's)
Less than 20 feet	4,700,000	-	-
20 feet or over and less than 26 feet	700,000	$ 25	$17,500
26 feet or over and less than 40 feet	257,000	50	12,850
40 feet or over and not more than 65 feet	45,000	100	4,500
More than 65 feet	3,000	200	600
TOTALS	5,705,000		$35,450

III. DISCUSSION

a. Although recreational boats utilize buoys established under the short range aids to navigation program, no program costs have been shown since practically all the buoyage system has been justified for commercial purposes.

b. Search and Rescue program costs of life threatening potential cases have been eliminated from the recoverable costs. Costs of these cases are considered to be in the broad national interest and of a humanitarian nature.

c. Recreational boats of less than 20 feet length do not individually receive measurable Coast Guard services. They have been eliminated from the demonstration fee schedule. Demonstration fee schedule does not reflect recovery of all allocated costs but is considered reasonable in view of the number of boats excluded.

d. Demonstration fee schedules to reflect full recovery of approximately $2.3 million through fees from the manufacturers of recreational boats and safety equipment for which Coast Guard standards and certification is provided must be developed.

SCHEDULE B - COMMERCIAL, DOMESTIC INLAND

I. SERVICES

		Estimated FY83 Cost in 000's
a.	Short Range Aids to Navigation services which provide a network of manned and unmanned aids to navigation including lighted and unlighted buoys and structures along the inland waterways	$28,800
b.	Port Safety and Security services to assure port, harbor and waterway safety	2,100
c.	Marine Environmental Protection services of monitoring and inspections to assure compliance with federal law and regulations	5,200
	TOTAL	$36,100

II. DEMONSTRATION FEE SCHEDULE - ANNUAL FEE

Class		Number	Fee	Amount (000's)
a. Towboats	- Less than 1000HP	2,520	$1,800	$ 4,536
	- 1000 to 4999HP	1,500	3,600	5,400
	- 5000HP and Over	160	7,200	1,152
	Subtotal	4,180		$11,088
b. Barges	- Less than 1600GT	20,000	900	$18,000
	- 1600GT and Over	4,000	1,800	7,200
	Subtotal	25,000		$25,200
	TOTAL			$36,288

III. DISCUSSION

a. No search and rescue services have been allocated to inland towboats and barges.

b. Special purpose barges will also be subject to direct charges for certain inspections.

SCHEDULE C - FISHING FLEETS (FOREIGN AND DOMESTIC)

I. SERVICES

		Estimated FY83 Costs in 000's	
a.	Search and Rescue services of non life-threatening potential	$ 7,000	($2,100)
b.	Short Range Aids to Navigation services which provide a network of manned and unmanned aids to navigation included lighted and unlighted buoys and structures along the seacoasts	123,000	($37,700)
c.	Radionavigation Aids services providing Loran C and radiobeacon electronic systems which furnish continuous, accurate, all-weather position fixing capability	35,000	($10,700)
	TOTAL	$165,000	($50,500)

II. DEMONSTRATION FEE SCHEDULE - ANNUAL FEE

a. United States Flag

Class	Number	Fee	Amount (000's)
Less than 5GT	100,200	$290	$29,058
5 to 99GT	19,200	600	11,520
100 to 499GT	1,970	1,200	2,364
500 to 1499GT	200	4,500	900
1500GT and Over	-	9,000	-
Subtotal	121,570		$43,842

b. Foreign Flag

Class	Number	Fee	Amount (000's)
Less than 5GT	-	$290	-
5 to 99GT	-	600	-
100 to 499GT	450	1,200	$ 540
500 to 1499GT	450	4,500	2,025
1500GT and Over	450	9,000	4,050
Subtotal	1,350		$ 6,615
TOTAL	122,920		$50,457

III. DISCUSSION

a. Demonstration fee schedule does not reflect recovery of all allocated costs but is considered reasonable in view of the overall economic condition of the fishing fleets.

b. Both U.S. and foreign flag fishing fleets are treated in a similar manner.

c. Foreign fishing fleet licenses have been reviewed to minimize any chance of double counting. Vessels with fishing licenses in two or more areas have been only counted once.

SCHEDULE D - COMMERCIAL, DOMESTIC COASTAL AND INTERNATIONAL

I. SERVICES

		Estimated FY83 Cost in 000's
a.	Search and Rescue services of non life-threatening potential	$ 2,000
b.	Short Range Aids to Navigation services which provide a network of manned and unmanned aids to navigation including lighted and unlighted buoys and structures along the Great Lakes and seacoasts.	96,200
c.	Radionavigation Aids services providing Loran C, Omega, and radiobeacon electronic systems which furnish continuous, accurate, all-weather position fixing capability	6,000
d.	Domestic Icebreaking services to meet reasonable requirements of commerce in the rivers, bays and sounds as well as in the Great Lakes during the period from 1 December to 15 January.	7,500
e.	Port Safety and Security services to assure port, harbor, and waterway safety through monitoring, boarding, inspection, and regulatory programs	20,800
f.	Marine Environmental Protection services of monitoring and inspection to assure compliance with federal law and regulation	52,200
	TOTAL	$184,700

II. DEMONSTRATION FEE SCHEDULES

1. International Trade - U.S. and Foreign Flag Vessels

	Gross Tons	Fee	Amount (000's)
Tonnage Fee	752,200,000	$0.20	$150,440

2. Domestic Coastal Trade - U.S. Flag Vessels

Class	Number	Annual Fee	Amount (000's)
Less than 5GT	0	$ 750	$ 0
5 to 99GT	2,373	1,500	3,560
100 to 499GT	802	2,000	1,604
500 to 4999GT	63	15,000	945
5000 to 22,999GT	280	30,000	8,400
23,000 to 49,999GT	62	45,000	2,790
50,000 and Over	24	60,000	1,440
Subtotal	3,604		$18,739

3. Domestic Coastal Trade - Tug/Towboats and Barges

a. Tug/Towboats

Class	Number	Annual Fee	Amount (000's)
Less than 1000HP	1,890	$1,800	$ 3,402
1000 to 4999HP	860	3,600	3,096
5000HP and Over	120	7,200	864
Subtotal	2,870		$ 7,362

b. Barges

Class	Number	Annual Fee	Amount (000's)
Less than 1600GT	1,800	$ 900	$1,620
1600 to 9999GT	2,400	1,800	4,320
10,000GT and Over	10	15,000	150
Subtotal	4,210		$6,090
TOTAL			$13,452

4. Special

a. Mobile Offshore Drilling Units (MODU)

Class	Number	Annual Fee	Amount (000's)
MODU	580	$1,000	$580
		TOTAL	$183,211

III. DISCUSSION

a. Limitations of the gross tonnage fee in international trade is similar to limitations of the current tonnage tax administered by Customs (i.e., 5 voyages per year cap).

b. Vessels and barges in both domestic and international trade are subject to the greater of the annual fee or the tonnage fee.

c. Tug/Towboats annual fees are similar to those for towboats in the domestic inland trade.

d. Commercial Great Lakes trade included in appropriate fee schedule except for domestic icebreaking seasonal surcharge which is shown in Schedule E.

e. Vessels included in the Special category receive only periodic benefits of Coast Guard services.

SCHEDULE E - GREAT LAKES SEASONAL ICEBREAKING SURCHARGE

Estimated FY83
Cost in 000's

I. SERVICES

a. Domestic Icebreaking services to the Great Lakes commercial trade during the period 16 January through 31 March provided on a ship day basis $5,800

II. DEMONSTRATION FEE SCHEDULE

a. Domestic Ice Operations Units

Vessel Class	# of units	"Effectiveness" Rating	Seasonal Availability	# days Available	Available Unit-days
MACKINAW	1	10	9 days of 10	67.5	675
WTGB	5	4	8 days of 10	60	1200
WLB	5	2	7 days of 10	52.5	525
TOTALS	11				2400

b. Calculation of User Charges

$$\frac{\text{Amount to be recovered}}{\text{Available Unit-days}} = \frac{\$5.800M}{2400} \quad \$2416 \text{ per unit-day}$$

c. Application of User Charges

Users would be charged on the basis of unit-days utilized, e.g., a daylong assist by MACKINAW would equal 10 unit-days. The charge levied on the user would be: 10 X $2416 = $24,160.

A "day" would be of specified length (16 hours) and would encompass the total time an icebreaker is underway for an assist. 1/4 day would be the smallest unit recorded.

III. DISCUSSION

a. The Great Lakes Seasonal Icebreaking surcharge is an additional charge placed on commercial vessels during the normally severe seasonal period between 16 January and 31 March for specific icebreaking services. The costs of the service provided are related to the type of icebreaker and the time used in icebreaking.

b. All other demonstration fees for recreational boats as well as fishing and commercial vessels are shown in other appropriate fee schedules.

SCHEDULE F - SERVICES TO COMMERCIAL VESSELS, MERCHANT VESSEL PERSONNEL, AND FACILITIES	Estimated FY83 Costs in 000's
1. COMMERCIAL VESSELS	
I. SERVICES	
a. Vessel Documentation services related to the issuance of documents to U. S. vessels, which affords those vessels the rights and privileges of a vessel of the United States.	$ 29,100
b. Vessel Admeasurement services to determine gross and net tonnages, which affect how national inspection laws and various customs and canal transit duties will apply to vessels.	7,000
c. Vessel Inspection services to assure an acceptable level of vessel safety aboard U.S. vessels, accomplished through examination and approval of vessel plans, inspection of the vessel during construction, and periodic inspections after the vessel enters service.	28,000
TOTAL	$ 64,100

II. DEMONSTRATION FEE SCHEDULES

a. Documentation of Vessels

Class	Number	Fee	Amount (000's)
All transactions (Includes: Issuance, endorsement, recording of title, changes)	50000	$600	$ 30,000
TOTAL	50000		$ 30,000

b. ADMEASUREMENT OF VESSELS

Class	Number	Fee	Amount (000's)
Simplified Yachts	8500	$ 120	$ 1,020
Simplified SPC	3000	120	360
Simplified NSPC	1700	120	204
Non-self Propelled	1000	600	600
Less than 75 GT	500	840	420
75 to 99 GT	340	3,000	1,020
100 to 174 GT	420	1,560	655
175 to 199 GT	200	3,720	744
200 to 274 GT	70	3,000	210
275 to 299 GT	60	4,680	281
300 to 499 GT	40	6,720	269
500 to 999 GT	40	8,640	346
1000 TO 3999 GT	20	14,520	290
4000 GT and Over	50	25,200	1,260
TOTAL	15,940		$ 7,679

SPC - Self-Propelled Commercial Vessel
NSPC - Non-self Propelled Commercial Vessel
GT - Gross Tonnage

c. VESSEL INSPECTION

(1) Initial Inspection for Certification

Class	Number	Fee	Amount (000's)
Small Passenger	260	$ 10,800	$ 2,808
Passenger	12	84,000	1,008
Oceanographic	0	45,000	0
Nautical SS	0	264,000	0
C/V Less than 300 GT	100	10,800	1,080
C/V 300-19999 GT	6	24,000	144
C/V 20000 GT +Over	9	36,000	324
T/V Less than 1000 GT	3	12,000	36
T/V 1000-19999 GT	2	30,000	60
T/V 20000-125000 GT	3	36,000	108
T/V 125000 GT +Over	0	48,000	0
C/C Less than 2000 GT	0	36,000	0
C/C 20000 GT +Over	5	42,000	210
Tank Barge O+D	240	19,200	4,608
Seagoing Barge	65	2,400	156
MODU	50	30,000	1,500
Subtotal	755		$ 12,042

(2) Inspection for Certification

Class	Number	Fee	Amount (000's)
Small Passenger	1300	$ 840	$ 1,092
Passenger	45	4,680	211
Oceanographic	9	3,120	28
Nautical SS	7	6,960	49
C/V Less than 300 GT	250	1,320	330
C/V 300-19999 GT	275	4,320	1,188
C/V 20000 GT +Over	30	5,280	158
T/V Less than 1000 GT	30	2,520	76
T/V 1000-19999 GT	60	4,560	274
T/V 20000-125000 GT	60	5,280	317
T/V 125000 GT +Over	1	6,240	6
C/C Less than 2000 GT	4	4,680	19
C/C 20000 GT +Over	5	5,520	28
Tank Barge O+L	2,200	840	1,848
Seagoing Barge	420	720	302
MODU	100	4,200	420
Subtotal	4,796		$ 6,345

(3) Reinspection

Class	Number	Fee	Amount (000's)
Small Passenger	2,600	$ 600	$ 1,560
Passenger	135	2,280	308
Oceanographic	8	1,680	13
C/V Less than 300 GT	250	840	210
C/V 300-19999 GT	275	2,640	726
C/V 20000 GT +Over	30	2,880	86
T/V Less than 1000 GT	30	1,440	43
T/V 1000-19999 GT	60	2,400	144
T/V 20000-125000 GT	60	2,880	173
T/V 125000 GT +Over	1	3,360	3
C/C Less than 20000 GT	4	2,760	11
C/C 20000 GT +Over	5	3,120	16
Tank Barge O+D	2,200	480	1,056
Seagoing Barge	420	480	202
MODU	100	2,280	228
Subtotal	6,178		$ 4,779

(4) Drydock Examination

Class	Number	Fee	Amount (000's)
Small Passenger	2,600	$ 360	$ 936
Passenger	90	2,520	227
Oceanographic	9	1,920	17
Nautical SS	4	2,880	12
C/V Less than 300 GT	225	720	162
C/V 300-19999 GT	275	2,880	792
C/V 20000 GT +Over	30	2,880	86
T/V Less than 1000 GT	30	1,560	47
T/V 1000-19999 GT	60	3,360	202
T/V 20000-125000 GT	60	3,840	230
T/V 125000 GT +Over	1	5,760	6
C/C Less than 20000 GT	4	3,600	14
C/C 20000 GT +Over	5	4,320	22
Tank Barge O+D	1100	1,080	1,188
Seagoing Barge	420	840	353
MODU	100	3,360	336
Subtotal	5,013		$ 4,629
TOTAL	16,742		$ 27,795

SS - School Ship
C/V - Cargo Vessel
MODU - Mobile Offshore Drilling Unit
GT - Gross Tonnage
T/V - Tank Vessel (Category includes Bulk Carriers
D - Oil Barge
C/C - Chemical Carrier
C - Chemical Barge

III. DISCUSSION

a. In June 1981, the Coast Guard and the American Bureau of Shipping signed an agreement which provides for the acceptance of ABS plan review and inspection of certain items on vessels under construction which are to be classed by ABS and certificated by the Coast Guard. This initial delegation comprised the first phase of a continuing plan to delegate certain CVS inspection and plan review functions to ABS. The second phase of this agreement is expected to be completed by 1 April 1982.

b. On 1 February 1982 a further agreement was signed with the American Bureau of Shipping allowing for the acceptance of their tonnage admeasurements by the Coast Guard.

2. MERCHANT VESSEL PERSONNEL

I. SERVICES

a. Merchant Vessel Personnel services to insure that those Merchant Marine Personnel required by law to hold a license or certificate are highly qualified. $19,400

TOTAL $19,400

II. DEMONSTRATION FEE SCHEDULE

Class	Number	Fee	Amount (000's)
Originals and Endorsements			
Master/Mate	3,990	$ 480	$ 1,915
Engineer	4,120	480	1,978
Pilot	960	600	576
Operator (MBO, IN, O)	9,320	480	4,474
Towboat Operator	2,940	600	1,764
Staff Officer	160	240	38
Radio Officer	70	240	17
MMD Entry Rating	19,980	120	2,398
MMD Exam Required	6,440	480	3,091
RENEWALS			
Deck (All)	9,540	240	2,280
Eng/Others	4,960	120	595
Duplicate MMD	8,000	120	960
TOTALS	70,480		$ 20,095

MBO - Motorboat Operator License
IN - Inland Operator License
O - Ocean Operator License
MMD - Merchant Mariners Document

III. DISCUSSION

a. Licenses are issued for a period of five years. Merchant Mariners Documents are issued permanently with no renewal required.

b. The initial fee for each license or certificate includes all elements attendant to issuance, including the cost for a retest of a failed examination.

3. FACILITIES

I. SERVICES

a.	Fixed offshore structures-inspection services to ensure compliance with safety standards related to lifesaving and firefighting equipment and standards	$ 900
b.	Terminals - Port Safety and Security services including approval of operating manuals, periodic inspections to ensure compliance, and monitoring of cargo transfer of cargoes of particilar hazard	11,700
c.	Terminals - Marine Environmental Protection services including periodic inspections, monitoring of cargo transfer to ensure compliance with federal law and regulations, and overall supervision and monitoring of pollution incidents	29,200
	TOTAL	$41,800

II. DEMONSTRATION FEE SCHEDULE

a. Fixed Offshore Structures - Annual Fee

Transaction	Number	Fee	Amount (000's)
Annual Inspection	600	$1,560	$ 936

b. Terminals

1) Initial Approval - One Time Charge

	Number	Fee	Amount (000's)
New Starts	100	$1,000	$ 100

2) Liquid Terminals - Annual Fee

a) Handling less than 250 BBL. Vessel

	Number	Fee	Amount(000's)
Marinas	6,800	$120	$ 816
Other Comm.	750	120	90
Subtotal	7,550		906

b) Greater than 250 BBL Vessel

	Number	Fee	Amount(000's)
Small	750	$1,800	$ 1,350
Medium	375	3,600	1,350
Large	225	14,400	3,240
Subtotal	1,350		$5,940

3) General Cargo Handling only Dangerous Cargo - Annual Fee

	Number	Fee	Amount (000's)
Small	2,000	$ 600	$1,200
Medium	1,000	1,200	1,200
Large	450	4,800	2,160
Subtotal	3,450		$4,560

4) Cargo of Particular Hazard - Each Incident

	Number	Fee	Amount (000's)
No Permit (Liquid)	25,000	$ 650	$16,250
Written Permit (Dry Bulk) (Oxidizing Agent)	5,000	1,950	9,750
Written Permit (Package) (Expl A, Radioactive, Oxidizing)	850	3,900	3,315
Subtotal	30,850		$29,315
SUBTOTAL			$40,821
TOTAL			$41,757

III. DISCUSSION

a. Random periodic inspections of both offshore structures and terminals are conducted to assure compliance with federal law and regulations

b. Terminals have been classed as small, medium, and large by a combination of throughput, numbers and complexity of transfers, and workload measures.

SCHEDULE G - INDIRECT CHARGES

COSTS RECOVERABLE BY INDIRECT CHARGES ($ in 000's)

	A Recreational	B Inland	C Fishing Fleets	D Commercial Domestic & International	E Great Lakes Seasonal Domestic Icebreaking Surcharge	Totals

		- Towboats
		- Barges
			- U.S. Flag
			- Foreign Flag
				- International - Foreign & U.S. Flag
				- Domestic Coastal
				  - U.S. Flag
				  - Tug/Towboat
				  - Barge
				- Special		

Search and Rescue..................	$ 10,500	$ -	$ 2,100	$ 2,000	$ -	$ 14,600
Short Range Aids to Navigation.....	-	28,800	37,700	96,200	-	162,700
Radionavigational Aids.............	-	-	10,700	6,000	-	16,700
Domestic Icebreaking...............	-	-	-	7,500	5,800 (1)	13,300
Commercial Vessel Safety...........	450 (2)	-	-	-	-	550
Recreational Boating Safety........	22,000 (2)	-	-	-	-	24,200
Port Safety and Security...........	550	2,100	-	20,800	-	23,450
Marine Environmental Protection....	1,500	5,200	-	52,200	-	58,900
Subtotal............	$35,000					
	2,300 (2)					
TOTAL..........	$37,300	$36,100	$ 50,500	$184,700	$5,800 (1)	$314,400

Note: (1) Direct Fee for Great Lakes Seasonal Domestic Icebreaking Surcharge.
(2) The remaining $100 and $2,200 will be recovered thru direct fees from manufacturers of recreational boats and safety equipment.

SCHEDULE G - DIRECT CHARGES

COSTS RECOVERABLE BY DIRECT CHARGES

	F1 Vessel Services			F2 Personnel Services	F3 Facilities		
	a. Vessel Documentation	b. Vessels Admeasurements	c. Vessel Inspection	Personnel Licensing Certification	Fixed Offshore a. Structure Inspection	b. Terminals	Total
Commercial Vessel Safety	$29,100	$7,000	$28,000	$19,400	$900	-	$84,400
Port Safety and Security	-	-	-	-	-	$11,700	11,700
Marine Environmental Protection	-	-	-	-	-	29,200	29,200
TOTALS	$29,100	$7,000	$28,000	$19,400	$900	$40,900	$125,300

USER FEES IN GENERAL FUND

Senator ANDREWS. Why was the decision made to have the revenues generated from the proposed Coast Guard user fees deposited in the general fund, as opposed to a dedicated trust fund for the Coast Guard?

This is another thing that kind of gives you the willies. You come in and put these licenses on and you say this is to provide navigable aids and all the rest, and then you put it into the general fund and nobody knows whether they are going to see it again.

Why was it done that way? Why is that part of your proposal?

Admiral HAYES. Here is one that I can tell you categorically that both the administration generally and I personally agree on. I really think in the long term, Mr. Chairman, it would be a mistake to start having a dedicated trust fund for Coast Guard missions, in effect.

It seems to me that the budget process that we currently have, requiring us to go through the Department and then OMB review, and finally review by the committees of the Congress would be abrogated by a dedicated trust fund, or at least the kind of review process occurring would be changed, and that is the wrong way to go.

I have been a manager around town, as you know, for quite a number of years and I guess I am reluctant to see operational programs such as ours become captive of a dedicated trust fund and be so intricately associated with such a trust fund. I think it would be a mistake from a manager's viewpoint.

SAFETY ACTIVITIES INVOLVING THE PRIVATE SECTOR

Senator ANDREWS. This budget stated that those Coast Guard activities that can be more ecomically done in the private sector will be reduced or terminated if and when commercial services are offered.

Admiral Hayes, can you tell us today if the Coast Guard is anticipating to terminate certain programs? Has the private sector expressed any interest in taking over any of the activities now being performed by the Coast Guard?

Admiral HAYES. The private sector has in certain limited areas; yes, sir.

Senator ANDREWS. What are those areas?

Admiral HAYES. To some degree in local search and rescue. There are some very small local search and rescue firms that have been established. Our internal Coast Guard policy, incidentally, for years has been, wherever such a private sector group is located, we will not interfere with that enterprise.

As a practical matter, obviously, where the Coast Guard is located it does make it more difficult for someone in the private sector to break into the search and rescue business because it is a "wait until something happens" kind of business and hence is a rather costly one if there is not enough business to keep that group going.

Now, the aids to navigation side of things, I think, is the other major area that we are going to be required to take a look at the extent to which either the private sector or some other civilian approach might perform the Coast Guard aids to navigation function more effectively.

My personal view of that is, I do not think it is likely to be the case, but there have been some expressions of interest by some tow-boat firms.

Senator ANDREWS. This leaves me a little bit cold. I would probably be pretty darned chilly if I was out on that ocean waiting for some private search and rescue group to come and get me.

Admiral HAYES. We would not expect that ever to happen, Mr. Chairman. We are only talking about very localized harbors, Chesapeake Bay, Delaware Bay, places such as that, Miami Harbor, where there are a lot of small incidents of people breaking down and needing to be towed back in. That kind of routine sort of thing where it becomes profitable for the private sector to do it, we would be delighted to have them pick it up.

But we will never give up our responsibility for rough weather, offshore search and rescue. I do not think anybody could ever make that profitable.

Senator ANDREWS. And you are not backing away from any search and rescue station operations because you feel that that will encourage or entice, or force the private sector to get into that.

Admiral HAYES. Not at all, sir.

Senator ANDREWS. What you are talking about, then is allowing the local, shall we say tow truck operator to be able to go out and pick up the disabled automobile out there. But you are in no way abrogating your responsibility to maintain safe traffic conditions and all of the other things, and maintain a safe highway with safe speeds. In case of major accidents you are going to be there, but if somebody breaks down they can be picked up by a private outfit.

Admiral HAYES. Correct, Mr. Chairman.

Senator ANDREWS. A dual capacity, rather than leaving the area and hoping that that guy with the little tow truck or the little tow tug is going to be able to do the type of search and rescue missions that are uniquely qualified to be handled by the Coast Guard.

Admiral HAYES. That is correct. And there is one other area I can point out that I really think we are going to see a success story, and that is the changes that we are developing in our commercial vessel safety programs.

I am rather excited about them. I think that in many respects we are kind of revolutionizing the way in which the Coast Guard is carrying out its statutory responsibilities in this arena. I have already identified in my statement, of course, the interactions that have been going on with the American Bureau of Shipping. We have likewise had some similar agreements developed with the National Cargo Bureau, and we are now looking at how we might also accept some of the capabilities of some of the international class or other flag nation class societies as well.

So, we think there are some really exciting things going on that are not going to in any way abrogate or derogate safety but will perhaps eliminate some of the redundancy and decrease a bit of our bureaucracy associated with carrying out those responsibilities.

Senator ANDREWS. I have one final question, then I am going to turn to Senator Chiles, the ranking member of the subcommittee, and later Senator Weicker, our colleague from Connecticut.

The final question I have has to do with the accident last January in Boston where a DC-10 jetliner slid in the Boston Harbor. A number of reports were issued that related to the Coast Guard's role. In particular, it was reported that a member of the Coast Guard spotted a body near the wreckage of the plane but no search was called for because the airline involved announced that all of the passengers and crew were safe.

I find it really difficult to imagine under what conditions a Coast Guardsman, seeing someone in the water, would not react immediately, based on his own information, his own sight, his own observance, rather than being talked out of it by some PR guy from the airline that says, "Hey, we got them all."

You know, who was this fellow and what type of training do you have for your Coast Guardsmen? Really, the story as it appeared in the paper was appalling to me.

Admiral HAYES. We checked it out, Mr. Chairman. The story was not accurate. The Coast Guard did continue a search for that reported body beyond the time that the airline official had indicated that everybody had been identified as having been recovered from the crash site.

Senator ANDREWS. You sure got a bum rap in the newspapers.

Admiral HAYES. We got a bum rap in the newspapers.

Senator ANDREWS. They said, from what I saw, that you did not do anything for 48 hours because the fellow who saw the person in the water had been assured by the PR types that everything was fine.

Admiral HAYES. No; we did conduct a search. We found nothing and because it was so localized, clearly either we were going to find that person immediately or it would not be worth continuing.

I think they continued the search on that for somewhere between 4 and 8 hours.

Senator ANDREWS. You must have done a pretty thorough report on it, Admiral, and I would appreciate it if you could include it at this point in the record—the result of your report; what the Coast Guardsman saw; what was done in the next few minutes; what was done in the succeeding hours. You must have that report some place.

Admiral HAYES. Yes, sir, we do indeed.

Senator ANDREWS. I think it should be a part of this record because there are an awful lot of people across this country that read that story. I am sure they were as shocked as I was.

Admiral HAYES. It disturbed me greatly, too, when I first heard about it. We did investigate it immediately.

[The information follows:]

DC-10 CRASH—LOGAN AIRPORT—JANUARY 23, 1982

1. The following is a summary of the Coast Guard search and rescue response to the crash of the World Airways DC-10 at Logan Airport, Boston Harbor, on January 23, 1982.

2. On January 23, 1982, at 7:42 p.m. the Operations Center of Coast Guard District One was advised by Logan Airport Tower that a DC-10 with 190 people on board had skidded off the end of the runway into Boston Harbor. The Coast Guard immediately responded by dispatching four Coast Guard smallboats, the Coast Guard Cutter *Pendant*, two Coast Guard 95′ patrol boats—WPB's, one Coast Guard and two USN helicopters. The aircraft were forced to return to their units due to on-scene weather—1 mile visibility with 500-foot ceiling lowering to 100 feet.

3. The first two Coast Guard smallboats arrived on scene at 8:20 p.m. They immediately commenced a search for people in the water. Upon arrival the Coast Guard Cutter *Pendant* assumed on-scene commander for search and rescue operations. A swimmer from the CGC *Pendant* reported he saw something that looked like a body in the nose section of the aircraft, which had broken away from the rest of the fuselage. A Boston harbormaster diver entered the nose section and reported that no persons were there.

4. At 9:30 p.m. the CGC *Pendant* ordered all divers to surface in order to organize and coordinate the search/dving effort. Safety of the divers, with multiple smallboats from CG, State, and local jurisdictions criss-crossing the area, was considered paramount. Divers at that time—no CG divers were involved—elected not to risk continued diving because the received reports that all persons were accounted for. Coast Guard units on scene continued to search under the assumption that there were people in the water. That search was concluded at 12:10 a.m., January 24, when the Massachusetts Port Authority—operator of Logan Airport—and World Airways jointly announced that all passengers were accounted for. That concluded the search and rescue portion of the incident. CG units remained on scene to maintain the safety zone established by the Captain of the Port, Boston around the aircraft, oversee pollution response, and assist the announced National Transportation Safety Board investigation.

Senator ANDREWS. Senator Chiles?

Senator CHILES. Yes, sir. I understand Senator Weicker has a brief statement.

Senator ANDREWS. Senator Weicker?

Senator WEICKER. Senator Chiles, thank you very much. I do just have one brief matter I would like to get into here and then submit the rest of my questions for the record.

Admiral, would you please update your plans for the Coast Guard Band in New London, Conn.?

Admiral HAYES. Yes, sir. I discussed that with the Secretary of Transportation this morning, and as a result of that discussion I have agreed with him that we would retain the band at its current size.

Senator WEICKER. At its current size. In other words, at its current numbers in New London?

Admiral HAYES. Yes, sir.

Senator WEICKER. I have no further questions, that is about the best news of the day. What I was worried about, ironically, I was driving along early in the morning—I had my exercise, my tennis, early in the morning—I listened to the radio going back and heard my friends Hardin and Weaver on the radio suggest that if the trend continued among the other service bands, why, we would have nothing but a group of combos playing all over the country for the Army, and the Navy, and the Marine Corps, and the Coast Guard.

I think you know as well as I do that at least New London, Conn., feels that the Coast Guard is to it what the Navy is to Annapolis and the Army to West Point. We take great pride in it.

In terms of that pride, in the presence of the Coast Guard, both as to the academy, and its facilities, and its band, it is not something that I feel should be cut back.

I want to thank you and I want to thank the Secretary very much for the very good news for New London.

Admiral HAYES. I certainly think you can thank the Secretary for his support on this.

Senator WEICKER. I am going to do that just as soon as I get back. Thank you.

COMPTROLLER GENERAL'S REPORT

Senator CHILES. Admiral Hayes, as you know, last Thursday the Comptroller General submitted a report to the Congress on the question of whether or not the administration actions had resulted in a deferral of Coast Guard appropriations, and specifically, the Coast Guard construction funds.

Senator Andrews and I requested that report on February 10 and, as you know, the GAO concluded last week that the administration has caused the deferral of $216.5 million of Coast Guard 1982 construction funds.

Under the provisions of section 1015 of the Budget and Impoundment Act, the report of the Comptroller General has the same legal significance as a deferral message transmitted by the President under section 1012 or 1013 of the Budget Reform Act.

As Senator Andrews said earlier, we will be taking action to disapprove the deferral with instructions that the Coast Guard move rapidly to commit these funds in fiscal year 1982.

Admiral Hayes, as Senator Andrews and I initiate our action to disapprove this deferral, what posture or position can we expect the Coast Guard to take on this matter? Can we expect cooperation from the Coast Guard, or will we have more footdragging and stonewalling?

Admiral HAYES. Most certainly, you will see the Coast Guard working as rapidly as we can, Senator Chiles, to get clearance from the administration for those projects we feel are in the spirit of what the Congress had intended that these funds will be obligated for. We are working on that already.

Senator CHILES. Well, if you start talking about the spirit of the Congress, I think at the last hearing we had up here the Congress tried to make its spirit and intentions pretty well known. Senator Stevens was here as the chairman of the Defense Subcommittee on Appropriations, Senator Andrews and myself, and other members that were here. I think the legislation itself, which earmarked $175 million and transferred in $300 million, spoke to the spirit.

Admiral HAYES. I have that message loud and clear, Senator Chiles.

Senator CHILES. I have a copy of a priority list that I believe was prepared by your office, establishing the priority of how another $300 million of funds would be spent for the capital program. Does this represent the list of items that you would move on once we disapprove the deferral?

Admiral HAYES. Yes, sir. From that list will be selected almost all of the specific projects that we would embark upon.

Senator CHILES. I note that in that list—and you have numbered some 22 different items—the first is a WPC prototype. Tell me what that is.

Admiral HAYES. That, Senator Chiles, would be one of the new SWATH vessels that has not yet really been fully tested operationally. We want to use this as an opportunity to not only increase our interdiction capability, but at the same time, I think as was stated in some of the language of this committee before, use some of this to look at new technology and new applications.

Senator CHILES. Right.

Admiral HAYES. It is what is called a small water plane area twin hull vessel, and its exciting capability is that in rather high sea states and high winds the dampening effect of a computer-controlled series of planes—not unlike those you find on a submarine, for example—have the effect of minimizing roll and pitch.

Of course, that provides two substantially increased improvements in capability. One, people fatigue and seasickness is almost eliminated—not entirely but almost eliminated; and second, it greatly increases your capability to use small helicopters in higher wind states and sea conditions.

So, we are very excited about the potential of that vessel, and we want to take advantage of this to test it.

Senator CHILES. I notice you also have six WPB's for the Caribbean operation. Tell me about those.

Admiral HAYES. These would of course be a type of vessel somewhere between probably 75 and 110 feet that would be a patrol craft, a patrol boat, fairly fast.

Senator CHILES. Those could be used for drug interdiction?

Admiral HAYES. Yes, sir, drug interdiction and probably of a type that we could also deploy with a larger Coast Guard vessel of our medium- and high-endurance cutter-type so that they could stay at sea a little bit longer by getting fuel and other support from that mother ship.

Senator CHILES. Next on the list is shore support for these WPB's. That would be to provide the facilities that you would need for the six patrol boats?

Admiral HAYES. Yes, sir.

Senator CHILES. So, you would be starting to go forward with that.

Admiral HAYES. Yes, sir.

Senator CHILES. Then I see four HC-130's.

Admiral HAYES. We currently have a problem, Senator Chiles, of substantial magnitude with the structure of the C-130 aircraft. It is not peculiar to the Coast Guard, it is the same among all the Armed Forces. This will be the first part of the program to correct that in our C-130 fleet and hence assure the continuing capability of those fine surveillance aircraft.

Senator CHILES. Also on the list is forward-looking infrared radar equipment. That is also something that could be used in your drug interdiction program; correct?

Admiral HAYES. Drug interdiction and, of course, search and rescue.

Senator CHILES. Search and rescue as well.

Admiral HAYES. Yes.

Senator CHILES. I notice that the first three out of four of them certainly could be used in drug interdiction and you talked about the Caribbean operations.

When will this priority list be finalized by the Department?

Admiral HAYES. Well, I would hope within the next 10 days to 2 weeks, Senator Chiles, if not before that.

Senator CHILES. The way I understand it now that we have the effect of the General Accounting Office report, the time is now running on the deferral.

Admiral HAYES. That is correct, sir.

Senator CHILES. And within 45 days, if Congress does not approve this action, then the funds must be released. But Congress, if it took action, could even shorten that 45 days and that is what Senator Andrews and I are talking about, trying to determine if we can find a vehicle to even shorten the 45 days. But in any event, the 45 days are running now.

Admiral HAYES. Yes, sir.

Senator CHILES. And you think within 2 weeks that you could have approval of this list, and we could start some of these items.

Admiral HAYES. I would hope so, Senator. We are certainly working on it right now.

DRUG INTERDICTION PROGRAM

Senator CHILES. Admiral, you and I have discussed many times the fact that $175 million of the $684 million total that was made available for Coast Guard construction account last year was earmarked to be used only for drug interdiction activities.

You have told the committee several times that the Coast Guard is now in the final stage of taking action to procure three surface ships to be used in drug interdiction. This procurement will amount to roughly $18 million, and it seems clearly to count against the $175 million that are earmarked for drug interdiction.

How much of the remaining $157 million earmarked for drugs can be committed in 1982? We are assuming, now, that the deferral does not take place and the funds are released.

Admiral HAYES. Of our total program in fiscal year 1982 we will be committing immediately one large chunk which will substantially enhance our capability in drug interdiction, and that is the $170 million for our medium-endurance cutter replacements, the 270's. We are putting a little better than $6 million into the rigid hull inflatables, which is going to substantially improve our boarding capability at sea.

Senator CHILES. Well, those are general mission 270's, and they are not going to be posted in south Florida, are they?

Admiral HAYES. They will not be posted in south Florida, but their principal function will be law enforcement at sea. Right now a major portion of that will be attributed, as they come on line, to the drug interdiction function, yes, sir.

Being multimission vessels, as you understand, Senator, every single one of our vessels that are actually doing that are also doing search and rescue, and are attributable to fisheries enforcement as well.

And, I point out in fairness that we are already seeing an interesting impact occur.

Senator CHILES. But that is a program that was initiated 4 or 5 years ago. I am trying to find out if there are items that we are going to see now that are going to give us more immediate relief because of the $175 million specifically earmarked for drug interdiction. Are there items like this priority list that we have been talking about?

Admiral HAYES. Well, as I think you know, Senator, although we have not yet released to the various congressional people concerned, and therefore I cannot submit it for the record at the moment, we are planning to relocate some 210-foot cutters down in that Florida area which will bring them more approximate to patrol areas, and hence have more ship-days available from them for that purpose. So, that will be an increase in capability.

Senator CHILES. When can we expect that?

Admiral HAYES. Hopefully, this summer. In fact, that is my plan, to have them relocated this summer.

Senator CHILES. How many 210's will that be?

Admiral HAYES. I think it is two, Senator Chiles, as I recall.

SURFACE EFFECT SHIPS

Senator CHILES. What is the status of the surface effect ships procurement and when will these ships be in service?

Admiral HAYES. We have now advertised our intention with respect to that. I think the response, as I recall the advertisement in the Journal of Commerce, required response within 30 days. As soon as we have that, we will then begin negotiating the sole-source procurement and would expect to have the first one within a few months.

So, we feel we are off and running on this one, Senator Chiles, and we are very pleased with the progress that is being made.

Incidentally, the Secretary has authorized, subject to this advertisement in the journal, sole-source procurement.

Senator CHILES. All right, sir.

FLORIDA PORTS

Earlier this year I had the pleasure of visiting four Florida ports with you and Admiral Stabile. This visit was part of the Coast Guard's study to select one of these ports for upgrading in order to home port additional Coast Guard assets.

I notice that your priority list indicates that you would procure six additional patrol boats for Caribbean operations. How soon would these craft be in operation and are these six patrol boats in addition to the three surface effect ships that we talked about earlier; and where will they be home ported in Florida?

Admiral HAYES. They will be home ported in Florida. I have not made the decision as to which of those ports.

Senator CHILES. Again, it would be one of the four ports?

Admiral HAYES. No doubt it would be one of those four, unless we find compelling reasons to do otherwise.

Senator CHILES. When do you think we could expect a decision as to which of those home ports and what kinds of assets you would be putting in there?

Admiral HAYES. I think we can provide you a decision on that between 2 and 4 weeks from now, Senator Chiles, as to the location. And to complete the answer to the rest of your question, those will be in addition to the three SES craft we have talked about.

As to the "how quick," all I can tell you is, as quickly as we can run through the procurement process to obtain them. It will take a little longer because that type of vessel is generally available in the marketplace and we will have to advertise for bids with respect to that. It will take a little bit longer than the sole-source procurement of the SES, for example.

Senator CHILES. I notice on your list that I am looking at now that you are talking about an item of shore support for the WPB's of $2 million.

Admiral HAYES. Yes, sir.

Senator CHILES. Earlier, we were talking about approximately $25 million that would be spent.

Admiral HAYES. As you know, Senator, the $25 million figure was the maximum figure that might occur if we decided to locate at a brandnew location, that is a port that currently did not have the shore support for our 270-foot medium endurance cutters.

At the present time we do not believe it is a wise decision to place that class of vessels in the southern part of the country because of the relative capabilities between them and the 210's. So, we are relocating our 210-foot cutters down there as we have identified, and placing the newer, smaller craft that have lower endurance down in the Florida area for the expansion of drug interdiction efforts.

Senator CHILES. Well, are you going to be able to get by with $2 million for shore support for the 210's?

Admiral HAYES. No, sir. That is not for the 210's. This will be for this new smaller group of patrol craft. The 210's will be relocated to a location where we currently have 210-foot cutters stationed so that we can cluster them together and they can provide mutual support.

Senator CHILES. But you still have to have additional shore support facilities, do you not?

Admiral HAYES. A moderate amount, but that is very low cost, Senator, compared to the rest of the dollars we are talking about. That will be a relatively low-cost requirement.

I might point out that we are planning $3 million for the surface effect ship shore support at Key West, Fla.

Senator CHILES. At Key West?

Admiral HAYES. Yes, sir. That is one of the four ports. So, we have already made a decision.

Senator CHILES. So, you made a decision on the surface effect ships.

Admiral HAYES. Yes, sir.

Senator CHILES. It will be at Key West.

Admiral HAYES. Yes, sir.

Senator CHILES. So, that would be $5 million that you would be spending for shore support facilities.

Admiral HAYES. I am sorry, what was that again, Senator?

Senator CHILES. That would be $5 million.

Admiral HAYES. I was just trying to get straight in my mind what we had worked out.

Senator CHILES. But Key West is the port.

Admiral HAYES. The Vice Commandant tells me that the final decision actually has not been made, but Key West is one of the leading contenders, let me put it that way.

Senator CHILES. I see.

Admiral HAYES. As you can see, Senator, what is happening right now is, we are having a very substantial change in location of Coast Guard vessels.

Senator CHILES. Admiral, I know we are in a "floating crap game." Every time I turn around the game changes a little bit. I know all that is not of your doing, but it is very hard for me to keep up with that game.

Admiral HAYES. My problem this year, Senator, has been that we have not known, as you know, for some time how many vessels of the Coast Guard we are going to end up with. That has been the problem.

Senator CHILES. But my understanding was, based on the $300 million that we were able to get and based on the $175 million which was earmarked for drug support, that you said based on those kinds of funds you were going to spend approximately $25 million in Florida for shore support facilities.

Admiral HAYES. I am sorry, sir, I never intended to make that a direct commitment. I said—if I recall correctly—that we would do that if we decided to place the 270-foot class, a cluster of them, in the Florida area.

I am just informing you, sir, at this time that, having studied all of the ship types of the Coast Guard now and where in our best judgment they ought to be located for future operations over the next couple of decades, we do not think it would be wise to put the 270-foot class down in that part of the country. We would be better advised to put the 210-foot class down there.

Senator CHILES. I do not think I have any reason to say whether we have to have 270's as opposed to 210's. We want help, and we want it as soon as we can get it. We want to be able to show the people that some help is on the way. That is exactly what we are seeking.

Admiral HAYES. Of course, Senator, I have made a major decision in that respect as I think you are aware, and that is for this fiscal year I have actually increased by one-third the number of our larger vessels on station in the Caribbean at all times. That is a quite substantial change and redirection in Coast Guard resources in the Atlantic.

So, that decision has been implemented and we are in fact doing that right now on an average basis.

ASSET ASSIGNMENT CRITERIA

Senator CHILES. I am glad for that, very, very glad. As you know, in last year's conference report language was included that directed the Coast Guard to submit a report outlining your asset assignment criteria with regard to major procurement programs now under way for 13 cutters, 90 helicopters, and 40 Falcon jets. That report was due on January 1, 1982.

The committee asked that it outline the criteria that would be used to assign the equipment that was being purchased under the major procurement program. The conferees also directed that the Coast Guard in the process of formalizing these assignment criteria give full consideration and significant priority to the need to assign more assets to the agency's drug interdiction program.

As I understand, you did prepare this report, it was submitted to the Office of the Secretary for clearance on December 23. When can the committee expect to receive that report?

Admiral HAYES. I can only tell you, Senator, as soon as I can get that report cleared.

Senator CHILES. Could you describe for the committee what the general contents of the report will be? Specifically, we asked that priority be give to Coast Guard drug interdiction programs and the development of the criteria.

How will the criteria address the need for the Coast Guard to play a more significant role in the drug interdiction activities?

Admiral HAYES. Well, one of the things that we think will specifically do that is the decision we are making with respect to our high- and medium-endurance cutters where we are shifting our 210-foot cutters to the Florida area, the gulf area; where we are increasing the assets that are associated with drug interdiction through the programs we have already been discussing here this morning.

We will be looking at the desirability of putting vessels in that particular climate for maintenance purposes; standard of living in some areas where we can keep out of a major resort area, also better for our families; and we take into consideration the adjacency of other major military support facilities such as an airbase or a naval base. We look at availability of schools and support for our people's dependents, medical facilities, and that sort of thing.

So, all of these criteria are looked at. We then look at the operational requirements, the type of vessel, the geographic area concerned with respect to operational demands being placed upon our facilities, and then we put all those pieces together and out of it, hopefully, comes the best distribution we can develop for the future we are looking at.

So, as you can imagine, it is a highly complex, not very precise sort of exercise. That is why it is taking us a substantial length of time.

VICE PRESIDENT'S CRIME INITIATIVES

Senator CHILES. On February 16, the Vice President announced several initiatives to assist with the crime and drug problems of south Florida. The Vice President specifically announced that there would be a significant and immediate increase in the forces and manpower of the Coast Guard in the south Florida area.

The initial response of the Coast Guard was to alert the seagoing buoy tenders in the area to assign Coast Guard cadets during the summer months to serve in the 7th District and to reassign two cutters assigned along the North Atlantic coast to the south Florida area.

Admiral, I understand that there have been additional things done in response to the Vice President's announcement. I wonder if you could outline the action taken by the Coast Guard to date and the actions planned by the Coast Guard to implement the Vice President's commitment.

Admiral HAYES. Of course, I have covered a number of those already this morning, Senator Chiles.

Senator CHILES. All right.

Admiral HAYES. I will elaborate a little bit. We do have also in the Florida area at the present time, as you know, three old Navy ATF's, the seagoing tugs, two of which are operating out of Key West, Fla., at the present time, and one operating out of Charleston, S.C.

We have also taken some policy actions that we hope are going to help increase the number of ship-days available. For example, we have directed our operational commanders in the Atlantic to maximize shipyard availabilities in home ports or ports within a reasonable distance of home ports so that we are not losing operating days at sea because of days away from the home port at the Coast Guard yard in Baltimore, Md., for example.

I have also directed that to the extent necessary we will occasionally exceed program operating ship-days and program ship-days away from home port at least during the current fiscal year.

Obviously, I am limited to some degree by the funds that are available to me during this fiscal year at the same time. So, I think it is fair to say, Senator, that we have expanded our operations in the drug interdiction arena to the maximum extent we can with the funds I currently have available.

UTE AND *LIPAN*

Senator CHILES. The *Ute* and the *Lipan* which are now stationed in Key West, were scheduled to be decommissioned at the end of fiscal year 1982. I understand these two cutters will not be decommissioned and will continue in service during fiscal year 1983; is that correct?

Admiral HAYES. Well, only if there is an amendment to the fiscal year 1983 budget, Senator Chiles, to support the continued operations of those vessels because funds have been provided only through the current fiscal year.

Senator CHILES. What do you need?

Admiral HAYES. We can provide that for the record, sir.

Senator CHILES. I would like to have that because we would feel we would certainly want to try to keep those vessels in operation. The funds would be used to do some further upgrading?

Admiral HAYES. Well, it would be a combination of two things, Senator. If we are going to keep them in operation they do require some additional funds to be spent on just plain maintenance of the vessel itself. As you can imagine,we pulled them out of mothballs and we did not have time, really, to do everything that should be done. That would be a one-time cost.

The other would be the recurring operating expenses for the vessels.

[The information follows:]

FISCAL YEAR 1983 COSTS USCGC *UTE* AND USCGC *LIPAN*

The operating costs for CGC *Ute* and CGC *Lipan* for fiscal year 1983 will total approximately $4.3 million. In addition, about $4 million in A.C. & I. funding will be required for reconfiguration and deferred maintenance of these two vessels.

ASSET CRITERIA

Senator CHILES. For the record, I think I would like to have you submit for us the asset criteria paper that you have described here for me.

Admiral HAYES. Yes, sir.

[The information follows:]

REPORT FOR COMMITTEE ON APPROPRIATIONS

CRITERIA FOR ASSIGNING COAST GUARD RESOURCES AND ENHANCEMENT OF DRUG INTERDICTION EFFORTS

U. S. COAST GUARD FY 1982
ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS APPROPRIATION

FY-1982 Funding Levels

A total of $684 million is available in FY-1982 for the Coast Guard's Acquisition, Construction, and Improvements (AC&I) Appropriation; $384 million from out regular DOT Appropriations Act, and $300 million transferred to Coast Guard AC&I from Defense Appropriations (Navy Shipbuilding and Conversion Appropriation). More than $580 million of this amount will be used to procure new operating resources and renovate existing units contributing to a significant improvement in drug interdiction mission effectiveness. We expect that resources identified with the drug interdiction mission will equal of exceed the $175 million level directed by the Committee. Planned application of these funds include $270 million to support the construction of the 270-foot medium endurance cutters, $45 million for medium range search aircraft, $214 million for short range recovery aircraft, $21 million for new high performance surface craft, $8 million for rigid hull inflatable boats and $22 million for rehabilitation of cutters in our current inventory. All of these multi-mission assets will be utilized in law enforcement activities and will provide an improvement in capability over the resources they are replacing. Budget pages AC-09 and AC-10, attached, present the mix of assets being acquired with this appropriation.

General Vessel and Aircraft Assignment Criteria. The Coast Guard, in reaching decisions regarding assingment of resources, considers both mission requirements and management efficiency. The latter involves maintenance, training, and other support requirements. Further discussion of assignment criteria is included in the following paragraphs.

270' Medium Endurance Cutters (WMEC). Numerous advantages will be provided by these new cutters, which are replacing obsolete, inefficient old ships. They are equipped with a flight deck and hangar, which enables them to deploy on patrol with a helicopter. They are faster and have improved, modern sensors and communications equipment. With new hull and machinery sustems these ships will be more reliable and will thus be on patrol more oftern.

These new cutters will be able to detect, track and identify suspect vessels ar long range. The foregoing improvements in capacity will enhance the deterrent effect of these vessels and will represent a significant advance in our drug interdiction capabilities.

The only decision regarding assignment of the new 270' WMEC's which has been made to date is that the first four will be assigned to Portsmouth, Virginia. This decision was arrived at after considering several interrelated factor; the first of which is mission need. In peacetime, the 270' WMEC's will be utilized primarily in the Enforcement of Laws and Treaties mission which involves relatively long patrols. Even the transit time between homeport and primary patrol areas can often be used effectively in the law enforcement mission for both active interdiction and deterrence. Thus, management efficiency can be maximized by clustering those vessels in a small number of ports.

In selecting a specific homeport, we consider the maintenance, training, and other support facilities available in that port. If such facilities are available, the vessels located there will not have to sail from homeport to obtain necessary services; thus more at-sea days can be provided for actual mission accomplishment. The support concept for these new vessels envisions a shared maintenance augmentation team to both reduce total personnel needs and to take advantage of efficiencies of scale in maintenance and supply.

Personnel considerations including availability of housing, medical care, and other services are also a factor, since sea duty is an arduous assignment and our personnel, as well as their families, must be provided for as well as is reasonably possible.

For example, clustering four WMECs in the Portsmouth/Norfolk area will allow more efficient use of crews and maintainance teams, and will provide extensive shore support facilities for our military personnel assigned to the ships. Locating in the Portsmouth/Norfolk area near the vast Navy fleet complex will improve access to Navy support commands, including Naval Training Centers for fleet schools and underway refresher training, as well as special maintenance and weapons facilities. These ships can also take advantage of the nearby Yorktown, Virginia Training Center, a major training facility for our Regular and Reserve personnel, and will be able to provide increased underway training for Reservists.

High Performance Surface Craft. These surface vessels are capable of accomplishing the missions currently conducted by our 82-foot and 95-foot patrol boats and appear significantly superior in speed, stability and confort. The latter two characteristics provide an environment much less fatiguing to shipboard personnel. They provide a high speed resource (30 knots or more) for interdiction of fast smuggling vessels and for rapid deployment for incident response. Also, these additions to our fleet will increase vessel hours available for law enforcement operations. It is expected that these vessels, upon commissioning, will be assigned to high drug traffic areas, primarily in Florida.

Rigid Hull Inflatable Boats. These 25-foot boats will be used to replace the older, more cumbersome 30-foot motor surf boats presently in use on most Coast Guard cutters. These boats will help improve the safety and efficiency of our boarding teams on drug interdiction missions. Cutters assigned to the East Coast will be the first to be outfitted with the new boats.

Short Range Recovery Aircraft. These aircraft, particularly in combination with the 270 foot medium endurance cutter, will greatly enhanve our ability to interdict illicit drug traffic. They are faster and should be more reliable and easier to maintain, especially aboard ship. They can fly farther from the ship because of improved navigational capabilities. The flight deck hangar on the 270 foot medium endurance cutter will afford these helicopters protection from the weather and, perhaps more importantly, a safe place in which repairs can be made. As a result, they should be available for flight more ofter. The effectiveness of our law enforcement patrols should improve substantially.

Medium Range Search Aircraft. These aircraft will provide more flight hours per airframe than the equipment being replaced. They offer a greater dash speed and are outfitted with modern equipment designed to enhance their surveillance and law enforcement capabilities. A new Forward Looking Airborne Radar (FLAR) provides a more reliable, state of the art radar capability allowing the aircraft to conduct optimal searches, whereas our current MRS aircraft offers only a simple weather avoidance system. These new aircraft are equipped with a vastly improved navigation suite and it is planned that some will carry the Airborne Remote Instrumentation Sensor System (AIREYE), which will provide for night detection. The new MRS aircraft design incorporates all the modern advances in aircraft technology, which equates to a more reliable, more easily supported aircraft.

Since aircraft must generally be available to respond to urgent Search and Rescue missions as well as law enforcement cases, they are more sensitive to geographical dispersion than are major vessels. In assigning aircraft, we must also consider our substantial investment in our existing capital plant ashore, i.e., new aircraft are normally assigned to existing air stations. Further, since our new MRS and SRR aircraft are being procured to replace existing obsolescent aircraft, the new aircraft will generally be assigned to those air stations from which old aircraft are retired. During the service life of an aircraft type, we continually monitor program requirements in order to determine changes which would dictate a change in aircraft assignment at any particular location.

Based upon these criteria, plans for assignment of the frist of our new operational MRS and SRR aircraft follow:

HU25A	
Mobile, Al	
Training	2
Operational	3
Miami, FL	6
Corpus Christi, TX	2
Cape Cod, MA	3

HU65A	
Mobile, AL (TNG)	3
Mobile, AL (POPDIV)	10
Cape Cod, MA	4
Brooklyn, NY	6
Cape May, NJ	3
Miami, FL	5
Houston, TX	4
Corpus Christi, TX	3
San Francisco, CA	3
Arcata, CA	3
North Bend, OR	3
Port Angeles, WA	3
Traverse City, MI	3
Detroit, MI	3
Chicago, IL	2
Barbers Point, HA	3
New Orleans, LA	2
Kodiak, AK	4
Astoria, OR	3

HAITIAN INTERDICTION PROGRAM

Senator CHILES. Tell me, now that we are getting through the winter season and we are getting to calmer seas, what does the situation look like in regard to Haiti and interdiction, the Coast Guard movement there in interdicting refugees?

Admiral HAYES. Well, at least for the time being my instructions from the President, through the Secretary, are to continue that operation at least for the balance of this fiscal year. What we are doing, of course, is keeping full time a Coast Guard vessel in the Windward Passage.

Now, as I have pointed out, I think, to you before in some of our discussions, Senator Chiles, that cutter is performing more than one function. The vessel on duty there has several times interdicted a drug trafficker, seized the vessel, and turned it over to another Coast Guard vessel to bring back into port.

Senator CHILES. What kind of movement do you see in regard to alien traffic from Haiti now?

Admiral HAYES. I think this has succeeded remarkably well, Senator Chiles, beyond anyone's expectations. Indeed, the vessel that sank off Florida yesterday really is the first one we have encountered in some time in those waters. Whether or not those were in fact potentially illegal migrants, we simply do not know. The people who survived have not been debriefed as yet.

But certainly, down in the Windward Passage area we are finding very, very few attempts lately to depart that country to emigrate to the United States.

CLOSING COMMENTS

Senator CHILES. Admiral, I understand that this is your last appearance before the committee. You have had several last appearances and maybe this will not be your last one. But on the occasion that it might be, again I want to tell you how much we have enjoyed working with you. I feel like you have tried to do an outstanding job. I know you have done an outstanding job, especially within the limited resources that you have. We certainly wish you well.

Admiral HAYES. Thank you, sir. I may point out that likewise this could be the last appearance of my Vice Commandant who has done a superb job and supported me so ably over the past 4 years.

Senator CHILES. We make that same statement for him.

I am delighted to see the General Accounting Office agree that we do have a deferral here. I notice that we have a representative from OMB here in the back of the room. I do not know whether we are going to go back through this catch-22 again or not but I hope we will not. I hope that now that the General Accounting Office has ruled that this is a deferral that we will be able to have the will of Congress, in dedicating that these assets be used, be honored.

SUBMITTED QUESTIONS

We will have some other written questions to submit for the record. We will recess the hearing upon the call of the Chair.

Thank you.

Admiral HAYES. Thank you, Senator Chiles.

[The following questions were not asked at the hearing but were submitted for response for the record:]

Questions Submitted by Senator Andrews

Senator Andrews: Your 1983 budget request includes $62 million in your operating expenses and retired pay accounts for health care formerly provided by the public health service. Considering the fact that you have never before provided these services, How was this amount determined? Is this an adequate amount?

Response: The $62 million figure was determined by analyzing how the current beneficiary workload data would ultimately be reapportioned as a result of FY81 public health service closures. The shift would be to DOD, Coast Guard and nonfederal facilities or to CHAMPUS (for dependents and retirees). We then estimated the reimbursement rates for the different facilities and arrived at an aggregate figure of $62 million. I expect this amount to be adequate in FY83.

Senator Andrews: What alternatives did you explore before deciding to provide for your own health care? Why were none of these options chosen?

Response: Alternatives were not considered since there will be no actual change in the way the Coast Guard receives or provides for its health care compared to FY 1982 when adjustments were made by the Public Health Service to accommodate the closure or transfer of PHS facilities. This FY 1983 action merely consolidates in one appropriation the management of funds previously apportioned in two appropriations i.e., Public Health Service and Coast Guard. Formerly, Public Health Service controlled the funds for Coast Guard active duty personnel utilizing Public Health Service facilities and for dependent and retiree care from all sources.

Senator Andrews: Will the inclusion of funds for health care become a permanent item in the Coast Guard budget?

Response: Yes. Funding for health care has been a permanent part of the Coast Guard budget since FY77. The transfer of funds from Public Health Service to Coast Guard in FY83 merely consolidates funding for this program within the Coast Guard budget.

SEARCH AND RESCUE PROGRAM

Senator Andrews: Provide for the record current projections for search and rescue activities for the next five years. How does this compare with the trend in the previous three years?

Response: The recently revised workload data for the Search and Rescue Program for the past three years was:

	1979	1980	1981
Cases	72,517	73,345	71,781
Responses	79,858	81,476	78,951
Lives Saved	5,747	6,868	6,389
Property Saved	$ 3.2B	$ 1.1B	$ 1.6B
Persons Assisted	174,500	196,500	168,300

Our projections for Search and Rescue workload for the next five years assume a moderate rate of growth in the demand for Search and Rescue in the Maritime region. This is based on historical trends. SAR caseload is sensitive to existing economic conditions of the country. There appears to be a relationship between SAR demand and fluctuations in the GNP.

	1982	1983	1984	1985	1986
Cases	79,233	83,027	86,556	87,438	86,821
Responses	87,156	91,329	95,212	96,182	95,503
Lives Saved	6,872	7,200	7,507	7,583	7,530
Property Saved	$1.77B	$1.86B	$1.94B	$1.96B	$1.94B
Persons Assisted	194,000	203,000	211,000	213,000	212,000

Senator Andrews: What is the breakdown of major users of the Coast Guard's search and rescue services? for example, does it assist greater numbers of recreational boaters or commercial fishermen?

Response: Recreational boaters represent the largest group of recipients of the Coast Guard's search and rescue efforts. The proportions of the total 1981 Search and Rescue for each major user group are:

Recreational Vessels	71.9%
Merchant Vessels	4.8%
Fishing Vessels	9.6%
Aircraft	0.7%
Personnel Only	6.9%
Other	6.1%

(Offshore Structures, land emergencies, false alarms, etc.)

Senator Andrews: Geographically, where are the highest concentrations of search and rescue cases? Also, how far from the shoreline do the majority of cases occur?

Response: The number of search and rescue cases for each Coast Guard District in 1981 were:

District	Location	Cases
First	Boston, Massachusetts	6,385
Second	St. Louis, Missouri	1,917
Third	New York, New York	12,342
Fifth	Portsmouth, Virginia	6,244
Seventh	Miami, Florida	12,504
Eighth	New Orleans, Louisiana	6,056
Ninth	Cleveland, Ohio	10,129
Eleventh	Los Angeles, California	3,346
Twelfth	San Francisco, California	4,944
Thirteenth	Seattle, Washington	5,973
Fourteenth	Honolulu, Hawaii	799
Seventeenth	Juneau, Alaska	1,142
TOTAL		71,781

Most search and rescue cases occur within three miles of shore. The distance offshore for all cases in 1981 was:

0-3 miles	3-10 miles	10-20 miles	20-100 miles	Beyond 100
60,164	6,423	2,019	2,210	965 = 71,781

ENFORCEMENT OF LAWS AND TREATIES

Senator Andrews: Provide for the record a breakdown of how much operational time the Coast Guard's high endurance cutters and the medium endurance cutters are actually devoted to the enforcement of laws and treaties. How does this compare with the past 3 years?

Response: The operating hours our high and medium endurance cutters have provided and are expected to provide this year are in the following table:

	FY79	FY80	FY81	FY82(est.)
ELT hours	69,000	77,000	68,000	73,000

Senator Andrews: Where are these cutters stationed?

Response:

ATLANTIC AREA

Portland, ME - USCGC DUANE
New Castle, NH - USCGC ACTIVE
USCGC DECISIVE
Boston, MA - USCGC CHASE
USCGC HAMILTON
New Bedford, MA- USCGC BIBB
USCGC UNIMAK
USCGC VIGILANT

New London, CT - USCGC VIGOROUS
USCGC EVERGREEN
Gov. Isl. NY - USCGC DALLAS
USCGC GALLATIN
USCGC TAMAROA
Cape May, NJ - USCGC ALERT
Yorktown, VA - USCGC RELIANCE

Norfolk, VA - USCGC INGHAM
USCGC TANEY
USCGC CHEROKEE

Atlantic Beach, NC - USCGC CHILULA
Charleston, SC - USCGC ESCAPE
Cape Canaveral, FL - USCGC COURAGEOUS
Miami, FL - USCGC DAUNTLESS
Key West FL - USCGC DILIGENCE
USCGC LIPAN
USCGC UTE

St. Petersburg, FL - USCGC STEADFAST
Panama City, FL - USCGC DEPENDABLE
Gulfport, MS - USCGC ACUSHNET
Galveston, TX - USCGC VALIANT
Brownsville, TX - USCGC DURABLE

PACIFIC AREA

San Pedro, CA - USCGC VENTUROUS
Alameda, CA - USCGC MORGENTHAU
USCGC MIDGETT
USCGC RUSH
USCGC SHERMAN
Eureka, CA - USCGC CLOVER
Seattle, WA - USCGC BOUTWELL
USCGC MELLON

Honolulu, HI - USCGC MUNRO
USCGC JARVIS
Kodiak, AK - USCGC CONFIDENCE
USCGC STORIS
Coos Bay, OR - USCGC CITRUS
Astoria, OR - USCGC RESOLUTE
USCGC YOCONA

DRUG ENFORCEMENT

Senator Andrews: How is the Coast Guard's "chokepoint strategy" working? Have you done any formal evaluation of this means of interdicting illegal drugs? If so, what were the conclusions?

Response: The chokepoint strategy is working well within the level of resources available to maintain coverage of the active passes. As more cutter time is devoted to patrolling the passes and providing transport of seized vessels to a U.S. Magistrate, the strategy will become much more effective. Traffickers now have the option of waiting until a pass is vacated prior to making their transit. The crucial part of the strategy that has never been in place is to continuously blockade selected passes until a shift in the trafficking pattern is detected.

The chokepoing strategy has been studied and evaluated using search and probability theory. The relatively small search areas or barrier lines are the most significant factors in making the chokepoint strategy the most efficient way to interdict sea-born drugs.

Senator Andrews: Are there any feasible alternatives to utilizing the "chokepoint strategy" to limit the flow of marijuana into the U.S.?

Response: It would be feasible to conduct drug interdiction patrols only within our Custom's Zone; however, the loss in effectiveness and efficiency, would be extreme. The relatively narrow Caribbean passes provide a detection advantage of small search areas that cannot be ignored. To maintain continuous coverage of the entire U.S. coast line would require mutiples of the cutters days to cover the chokepoints at the same level.

Senator Andrews: How efficient is the use of large cutters in interdicting drug traffic? Do you have any plans to procure more efficient patrol boats for this purpose? In particular, we have heard recently of the merits of the surface - effect ships (SES). Would these vessels be practical in helping to implement the "Chokepoint strategy?".

Response: It is not always necessary, at this time to have high endurance cutters (WHEC's) in the chokepoints to conduct effective patrols. It is necessary to have a cutter which is capable of remaining on scene for about a 2 week period to allow sufficient chokepoint time versus patrol time to and from the chokepoint. It is also desirable to have a helo capable cutter. We estimate the interdiction effectiveness is increased by a factor of 1.4 when a helo is embarked. The large cutter also provides the capability of running multi-unit patrols with patrol boats (WPB) and surface-effect ships (SES). At this time, Yucatan Channel and Windward Passage are primary smuggling routes and medium endurance cutters (WMEC's) can provide a sufficient patrol. As routes change due to enforcement pressure, the value of the more capable WHEC's will be in providing the long legs necessary to patrol more easterly chokepoints and other areas further south. Smaller patrol boats can be used effectively for chokepoint patrols, but their on scene time is limited without replenishment. The high and medium endurance cutters can provide this support and helo reconnaisance. All types of patrol vessels are being considered for this purpose, including the SES. We are considering the procurement of three SES's in the near future.

OPERATION TIBURON

Senator Andrews: I understand that during "OPERATION TIBURON," a key role was played by the El Paso Intelligence Center in receiving and disseminating information on drug trafficking. Please outline the operations of the center with respect to its activities in drug enforcement. Where does jurisdictional authority for operating the center lie?

Response: The primary objective of the El Paso Intelligence Center (EPIC) is to provide a complete and accurate intelligence picture of drug movement by land, sea, and air throughout the world. Major emphasis is focused on trafficking organizations whose narcotics are destined for the United States. The EPIC mission is accomplished by the accumulation of raw intelligence, analysis of data and the provision of tactical and operational intelligence to agencies having direct or related statutory law enforcement responsibilities.

Tactical support to participating and associated agencies is through real-time response by the EPIC Watch to queries from field agents. Available data bases provide special purpose tactical intelligence support such as suspect persons, names, and vehicle, vessel, and aircraft identification or lookouts for narcotics interdiction purposes. EPIC is an intelligence support activity with a sophisticated communications capability to perform operational and strategic intelligence analysis using the Watch and Analysis Sections. Requirements for EPIC products may be identified by EPIC management and member agencies.

On March 4, 1974, in response to a request of the Office of Management and Budget (OMB), the Department of Justice submitted to OMB a paper entitled, "A Secure Border: An Analysis of Issues Affecting the U.S. Department of Justice." This paper detailed current narcotics and border enforcement strategy and programs, and recommendations for both an improved operational posture and changes in legislation to augment the proposed changes. Recommendation #7 of this paper suggested the establishment and direction of a Southwest Border Intelligence Service Center by the Drug Enforcement Administration to be staffed by representatives of INS, DEA and Customs. As a result of subsequent consultation, the El Paso Intelligence Center was created and a representative of DEA was selected as Director. The U.S. Coast Guard, the Bureau of Alcohol, Tobacco and Firearms, the Federal Aviation Administration, the U.S. Marshalls Service, the Fedreal Bureau of Investigation and the Internal Revenue Service have since become participating member agencies. In addition, DEA has selected EPIC as the means to provide mandated intelligence support to state and local law enforcement agencies.

Senator Andrews: What role will El Paso Intelligence Center play in future Coast Guard drug interdiction efforts?

Response: The Coast Guard will continue to channel all raw narcotics intelligence information that we collect by any means through EPIC, and rely upon that joint agency organization as our primary source of finished intelligence products.

Senator Andrews: Provide for the record the current unobligated balance as well as the anticipated annual revenue and expenditure level for the Pollution Fund. Based on the historical trend of a steady drawdown of the unobligated balance for the Pollution Fund, do you anticipate the need for a supplemental appropriation request in the near future?

Response: The unobligated balance of the Clean Water Act (Section 311 (k)) Pollution Fund at the close of business on December 31, 1981, was $26,180,276. The revenues in the form of collections for Fiscal Year 1981 were $7,099,910 and expenditures in the form of obligations were $23,492,995. The passage of (P.L. 96-510) the Comprehensive Environmental Response Compensation Eligibility Act of 1980 (CERCLA), has reduced the "drawdown" on the Pollution Fund by targeting the expenses for abandoned dumpsite remedial action to the industry financed CERCLA trustfund, rather than the general revenue financed Pollution Fund. There is no anticipated need, in the near future, for supplemental appropriation for the Pollution Fund, except for the remote possibility of an catastrophic discharge which would consume a major portion of the balance of the fund.

Senator Andrews: The Offshore Oil Pollution Compensation Fund and the Deepwater Port Liability Fund are largely funded from revenues collected on oil produced and transported. Are there enough funds available in each of the Funds to provide for adequate clean-up of any oil spill should it become necessary to draw upon them?

Response: The current monies invested for the Offshore Oil Pollution Compensation Fund are $22,270,000 and for the Deepwater Port Liability Fund, $793,800 as of 1 April 1982. These monies provide adequate cleanup capability for relatively minor spills. Fiscal Years 1979 thru 1982 and as proposed for Fiscal Year 1983, obligation ceilings of $60,000,000 for the Offshore Oil Pollution Compensation Fund and $50,000,000 for the Deepwater Port Liability Fund establish minimal constraints on probable cleanup requirements, but substantial constraints on possible liability claims for major spills. Except for the above obligation ceilings, appropriation authority using "indefinite" language i.e. "such sums as may be necessary", with continued borrowing authority, provides adequate clean-up funding for all spills. Appropriation authority using "definite" language and limited to specific low annual expenditure estimates, as is the FY 1982 Act, may provide inadequate clean-up capability.

MILITARY READINESS

Senator Andrews: What is the incremental cost of maintaining a readiness posture for the entire Coast Guard as opposed to that portion of the Coast Guard dedicated to wartime naval functions?

Response: As stated in 14 USC 1&2 the Coast Guard is a military service at all times with the requirement to maintain a constant state of military readiness. Accordingly, all duties performed are done so under the broad umbrella of "readiness". Although most of our multi-mission facilities have "wartime naval functions" capability, no portion of the Coast Guard is exclusively dedicated to this role. Because of this there are no identifiable incremental costs for maintaining this posture. The performance of our peacetime missions (i.e. SAR, AtoN, Port Security and Safety) serves to train and prepare personnel for the upgraded wartime missions. Because of this close relationship between peacetime and wartime missions a substantial amount of funding is received from the Navy even in peacetime. The authority for this funding is based on 14 USC 145(a) which states: "The Secretary of the Navy at the request of the Secretary of Transportation may, with or without reimbursement for the cost thereof, as agreed:

(1) build any vessel for the Coast Guard...

(2) receive officers and enlisted men of the Coast Guard at any (Navy) school...

(3) permit personnel of the Coast Guard and their dependents to occupy any public quarters maintained by the Navy..."

These services are provided by the Navy through interservice agreements. The Coast Guard is a tenant activity at Barbers Point, Hawaii, Corpus Christi, Texas, and New Orleans, Louisiana, Naval Air Stations. There are two Coast Guard Air Stations at Air Force facilities. Some of our Captains of the Port and group offices are located on Department of Defense facilities. A few of our ships are homeported at Navy facilities. We train at Navy schools. Approximately 8,000 Coast Guard personnel receive training at Department of Defense facilities annually. The Coast Guard's Office of Personnel invariably seeks the most cost effective training program available which meets Coast Guard readiness requirements.

MILITARY READINESS

Senator Andrews: In a case of war or national emergency, certain functions of the Coast Guard are transferred to the Navy to assist in Naval Operations. Specifically, what percentage of the Coast Guard would be performing Naval activities and how much would continue to carry out the statutory functions of the Coast Guard under such an emergency?

Response: The Coast Guard response to a war or national emergency could, depending on the nature of the emergency, involve all of our resources. Navy operation plans have traditionally called for direct use of up to 35% of Coast Guard assets in direct support of Naval missions. This percentage is escalating as the Joint Planning Community refines and updates operation plans to recognize and respond to the contemporary world environment.

Other Coast Guard forces will be engaged in those defense-related statutory missions which take on a significant military aspect in wartime. The entire Coast Guard assumes a level of readiness to respond to any defense-related requirement providing support to the military services and those commercial interests vital to strategic mobility. Port Safety and Security, for example, is a peacetime statutory responsibility requiring significant commitment of forces in time of national emergency or war.

While the Coast Guard contribution can thus be divided into Naval and statutory functions, most of our missions have a military application. The relative extent of our commitment to each mission area is dependent upon the nature and extent of the crisis and DOD's determination of the current need.

TRAINING

Senator Andrews: How will Refresher Training for the new 270-foot Medium Endurance Cutters be handled? Are they being homeported in such a manner as to reduce transit times to training facilities?

Response: The new 270-foot cutters will initially follow the training curriculum currently used for Medium Endurance Cutters. After receiving their full weapons suite the vessels will follow the refresher training program outlined for High Endurance Cutters. This refresher period will be comprised of training and exercises in mission areas along with seamanship, navigation and piloting, gunnery, communications, engineering and casualty control. The training period is then ended with a battle problem that incorporates the bulk of all previous training received. The training will be given at a U.S. Navy refresher training facility.

In the selection of a homeport, primary consideration is given to direct mission need. Where should the unit be placed for maximum operational benefit? Secondary considerations include proximity to training and other support facilities. Maintenance facilities must be available in the homeport. Crew training facilities should be accessible, and the area selected should also have a reasonable environment in which the ship's crew members can locate their families. Obviously, no one port will score high on all these areas. The homeports are selected realizing that a certain amount of trade-off is inevitable but keeping in mind the primary consideration -- mission need.

Senator Andrews: Your budget request for 1983 shows that full time permanent employment for military staffing will decline by over 1700 appointments from 1982 to 1983. The majority of this reduction will occur in your operating programs. What is the justification for this reduction? What will its impact be upon your operations?

Response: The decline in military staffing is primarily the result of FY 1982 actions to both improve the internal organization and management of the Coast Guard and to reduce the burden of government on the private sector. Among the actions we have taken are the elimination of low productivity activities, the consolidation/modernization of certain functions, and the transfer of regulatory functions to equally capable non-federal entities.

These actions will have minimal impact on Coast Guard operations and will not significantly compromise the provision of essential services.

PERSONNEL RETENTION

Senator Andrews: At last year's hearing before this sub-committee, you stated that while preliminary figures showed an increase in retention for all categories of enlisted personnel, it was too early to state definitively whether the Coast Guard's personnel retention problems were over. With an additional year having passed to evaluate the Coast Guard personnel retention rates, how do they now stand?

Response: Our enlisted personnel retention rates certainly have improved, currently with 40% first-term and 85% subsequent rates of reenlistment. We cannot state, however, that our retention problems are over. Applying our current retention rates to our personnel data permits us to understand what the effects of sustained high retention will have on the Coast Guards' more basic problem and long-term objective: raising the experience level of our forces.

The Career Manning Level (CML) is a tool used to describe our experience level. CML is a "snap shot" look at the experience level of Coast Guard personnel at a specific point in time, whereas a retention rate simply tells us the percentage of people who happen to be at a reenlistment decision point who we also manage to retain in the Service. A Career Manning Level can be expressed as:

$$\text{CML} = \frac{\text{Number of Career Personnel}}{\text{Number of Career Billets}}$$

For example, we could establish a CML for personnel who fall into the category of being eligible for a Zone A Selective Reenlistment Bonus as:

$$\text{Zone A CML} = \frac{\text{Zone A Career Personnel}}{\text{Zone A Career Billets}}$$

where "Zone A Career Personnel" is a tally of those persons with 6 or more years active service, and "Zone A Career Billets" is the total of the E-9, E-8, E-7, E-6 plus one half of the E-5 billets in the Coast Guard.

Our goal for CML is at least 100%. In other words, for our Zone A CML we would like to have at least half of our E-5 billets and all E-6 to E-9 billets filled with people with six or more years active service time. Thus, CML tells us the experience level of our forces. CML is influenced not only by retention but by changes in the billet structure, retirements, and promotions to commissioned officer status as well. Our current Zone A CML is 75%, while for personnel in later zones the CML is higher.

Projected Career Manning Levels provide an interesting picture of of what our experience levels will be, given certain retention rates. During the end of the last decade the Coast Guard suffered through 3 1/2 years of declining retention, resulting in our experience dropping to very low levels. Therefore, one would expect that our problems will not be solved immediately with high, short-term retention rates. They won't. As measured by PCML, high long-term reenlistment rates will be needed to solve our experience problems. If the present retention rates are maintained for at least three more years, the Coast Guard will approach the goal of 100% CML.

Senator Andrews: Following an inspection by the National Transportation Safety Board of a May 16, 1981 collision between the M/V HOEGH ORCHID and the Staten Island Ferry AMERICAN LEGION, several recommendations were made to the Coast Guard. In particular, the Board recommended that the Coast Guard evaluate the curricula of its approved radar schools to determine if adequate standards in radar proficiency have been established, work to improve identification techniques for the Staten Island Ferries on its radar units and require that all Staten Island Ferries in New York City operate with gyrocompasses. What has been the Coast Guard's response to these recommendations and what follow-up actions are planned?

Response: The Coast Guard received safety recommendations M-82-1 through 3 from the National Transportation Safety Board on 16 March 1982. These safety recommendations address the issues raised by Senator Andrews in regard to the 16 May 1981 collision between the M/V HOEGH ORCHID and the Staten Island Ferry AMERICAN LEGION. The Coast Guard is currently reviewing these safety recommendations at the staff level. We plan to convey our official position within the 90-day response period mandated by the Independent Safety Board Act of 1974.

USER FEES

Senator Andrews: How will enforcement of the proposed Coast Guard user fees add to your workload and costs?

Response: We have attempted to design our proposal so as to make enforcement as straight forward and simple as possible given the revenue needs and the need for equity. Some fees such as vessel inspection and merchant vessel personnel licensing will be collected at the time the service is rendered. Others may be collected by other agencies in order to make use of existing procedures and operating methods by the government and the maritime industry. We anticipate that enforcement costs will be a very small proportion of user fee collections.

COOS BAY BRIDGE STUDY

Senator Andrews: The 1982 Senate Report directed the Coast Guard to initiate a study on the need for replacement of the Coos Bay bridge in Oregon. What is the status of this report?

Response: The report of the study should be available to the Committees by the end of April 1982.

STROBE LIGHTS

Senator Andrews: It has come to the attention of the subcommittee that the Coast Guard is considering the possibility of disregarding the recommendations made by the Rules of the Road Advisory Council to include high intensity white light (strobes) to the recognized distress signals for boats. It this correct? If so, what alternative devices would the Coast Guard require as distress signals for boats?

Response: The Coast Guard agrees with the Rules of the Road Advisory Council and is issuing a final regulation, which should be published soon, that recognizes a strobe light flashing 50 to 70 times per minute as a signal to indicate distress and need of assistance. This regulation will apply to United States inland waters.

AMMONIA SPILL STUDY PROGRAM

Senator ANDREWS: In the conference report for Fiscal Year 1982, the Coast Guard was directed to promptly complete the Ammonia Spill Study program, a project jointly financed by the United States, foreign governments, and private industry. We have recently received information that the U.S. Coast Guard has allocated only $50,000 in Fiscal Year 1982 for this project, even though the U.S. Coast Guard estimates indicate that the study will require approximately $250,000 in additional funds (total of $300,000). This project has dragged on for four years and expended approximately $700,000 contributed by foreign governments and U.S. industry. An obligation exists between the Coast Guard and those who have contributed to this program. What is the status of this project and the timetable for completion?

Response: The Coast Guard has been working with The Fertilizer Institute (TFI) since 1978 on a research program to conduct tests of large scale anhydrous ammonia releases at the U.S. Naval Weapons Center (NWC) China Lake, California. A three phase program was developed. Phases I and II were largely funded by TFI and are complete. Phase III of this effort, which mainly requires Coast Guard funding, consists of the actual study of thirteen separate anhydrous ammonia releases (or spills), three of which have been conducted. These tests have been unsuccessful to date. Actual expenditures thus far are as follows:

TFI-	$ 854 thousand
USCG-	$ 436 thousand
Dept. of Energy-	$ 100 thousand
Fed. Railway Admin.-	$ 40 thousand
United Kingdom-	$ 24 thousand
Total	$1454 thousand

Difficulties have been encountered in Phase III of the study program. The spill tests, as designed, require weather conditions within narrow limits. Based on historical data, these weather conditions may reasonably be expected and the funding allotted to this effort appeared adequate. Experience has proven the opposite to be true, however. After a great deal of time and money had been expended in setting up for sixteen of the spill tests, only three could eventually be executed. The weather conditions at the time of the planned spill for the other thirteen, precluded their execution.

The Coast Guard will conduct an additional test in May, 1982. Based upon the outcome of that test, sufficient data may exist for the purposes of the study. The outcome may, however, also indicate that additional tests will be required as planned, or that the test plan is technically unfeasible and the project should be terminated. $200-300 thousand would be required to complete all of the 10 remaining tests. Project completion would be May, 1983. One year is required because the tests, as explained above, are very weather dependent, at a minimum requiring wind speeds and directions within the test limits. The availability of the NWC after September, 1982, is questionable and represents another obstacle to the succesful completion of this test program. The Coast Guard is presently discussing this problem with NWC.

TRUMAN-HOBBS

Senator Andrews: How does the Coast Guard plan to deal with bridges already started under Truman-Hobbs, given the fact that you are recommending that no FY83 funds be appropriated for bridge alteration? How much work needs to be done (in dollars) on uncompleted bridges begun under this program?

Response: The $8 million provided in FY82 will allow completion of all bridges under construction. In addition, there is $1.3 million available to begin construction of a highway bridge across Point Pleasant Canal, New Jersey. The State of New Jersey has been advised that there are no additional funds available for this project.

PAY SUPPLEMENTAL

Senator Andrews: What is the size of the 1982 Pay Supplemental for military and civilian Coast Guard personnel? Is the Administration planning to submit a formal request for this amount? If so, when?

Response: The 1982 pay supplemental is $73.5 million for military and $4.6 million for civilian personnel in the Operating Expenses Appropriation and $1.5 million for military personnel in the Reserve Training Appropriation. We understand that OMB plans to include the above funds for the Coast Guard in its annual consolidated request to the Congress for all agencies requiring pay supplementals.

Senator Andrews: Will this pay supplemental request cover the total costs of the increased pay and benefit requirements for 1982? If not, how much would be needed to do so?

Response: No, the pay supplemental request itself will not entirely cover 1982 pay and benefit costs. However, we have made adjustments in our financial plan which will, together with the supplemental, adequately fund our requirements.

HAITIAN INTERDICTION ACTIVITIES

Senator Andrews: How would you evaluate the Coast Guard's involvement to date in interdicting the flow of illegal Haitian immigrants into this country?

Response: A preliminary estimate shows the program has been very effective. From 1 November 1981 through 31 March 1982, 160 illegal Haitians arrived in the U.S., none traveling directly from Haiti by boat, as compared with 3,125 arrivals during the same time frame the previous year. Based on the Immigration and Naturalization Service's projected number of entries for this period of 1261, 87 percent of the expected illegal immigrants have been intercepted or deterred from entry.

Senator Andrews: The Coast Guard has requested $5.5 million in supplemental funds for 1982 for the continued interdiction of illegal Haitian immigrants, but no funds for this activity were included in your 1983 budget request. Do you plan to revise your 1983 request to include funds for these activities? If not, does this mean you believe there is no longer a need for this activity after September 31, 1982?

Response: The final decision to continue or discontinue this operation will be made after a joint evaluation of the operation by several federal agencies later this fiscal year.

Mr. Andrews: Taxes have been collected, and are reserved in a special fund at the Treasury, for recreational boating safety. What is the total amount of those funds to date? Why has only $5 million been requested in the FY 1983 budget? What use would you propose to make of the remaining funds?

Response: The Recreational Boating Safety and Facilities Improvement Fund balance is limited to $20 million. That is the current balance of the Fund.

The $5 million requested for FY 1983 for distribution to the states is considered an adequate level of funding to support increased state boating safety programs. Significant funding had been provided in previous years as seed money for state program development under the State Boating Safety Assistance Appropriation (SBSA). The SBSA program was terminated in FY 1979 after states had developed satisfactory programs of their own. The Coast Guard and Coast Guard Auxiliary continue to provide considerable boating safety services to states and the public. No funding was requested for boating facilities since this is considered a more appropriate responsibility for local government and the private sector.

The remaining funds will be used to finance future boating safety programs as required.

AIDS TO NAVIGATION

Senator Andrews: Has the Coast Guard examined the possibility of contracting some portion of its aids to navigation activity out to the private sector? Is this a feasible alternative?

Response: The Coast Guard now employs civilian contractors to construct new aids or rebuild destroyed aids when the work is beyond the capability of our units. This has proven feasible although, at times, it strains our limited contract management resources. In addition, at the present time we employ 29 civilian lamplighters to service approximately 600 remote aids to navigation. OMB has requested that we examine the feasibility of using contractors to operate loran stations and to perform the maintenance services now accomplished by Coast Guard 180-foot buoy tenders. We are investigating these alternatives and anticipate replying to OMB in September 1982.

ROLES AND MISSIONS

Senator Andrews: The Coast Guard Roles and Missions Study is scheduled to be transmitted to the Congress at the end of this month. Is this schedule being adhered to?

Response: The Study is on schedule and I anticipate that it will be approved by the Secretary of Transportation and forwarded to the Congress by March 31.

Senator Andrews: Since that is tomorrow, can you share with us the major conclusions of this Study? Does the paper make any recommendations to significantly change the Coast Guard as we know it today?

Response: The basic conclusion of the Study is that the Coast Guard should continue to carry out its traditional responsibilities in the future. I expect that the report to the Congress will confirm that the Coast Guard's missions are essential to the national interests, and that there will be no recommendations which would alter the Coast Guard in any drastic way.

OIL RIG INSPECTIONS

Senator Andrews: It has been reported that the oil drilling rig "OCEAN RANGER", which sank off the coast of Nova Scotia, Canada, last February, had been inspected more than two years prior to the accident and that another routine inspection was two months overdue. Why had the Coast Guard not inspected the "OCEAN RANGER" at the time such an inspection was due?

Response: Under various marine safety statutes including Title 46, United States Code, Sections 399, 435 and 497, certain U.S. flag vessels are required to have valid Certificates of Inspection (COIs) to avoid being subject to penalty. It is the owner's responsibility to ensure that his vessel has a valid COI. For Mobile Offshore Drilling Units which are in international service such as the OCEAN RANGER, the master, owner or agent is required to apply to the Coast Guard for renewal of the COI sixty days prior to its expiration date if renewal is desired. This application in advance of expiration is designed to minimize any delays to the vessel concerning travel, support and other logistical details for Coast Guard inspectors.

In the case of the OCEAN RANGER, a request for inspection was made on 2 February 1982 and a team of Coast Guard inspectors was scheduled to inspect the vessel on 15 February 1982. The OCEAN RANGER's COI expired on 27 December 1981.

Senator Andrews: What kinds of things does the Coast Guard look for prior to awarding inspection certificates?

Response: Title 46, Code of Federal Regulations, Subchapter I-A prescribes rules for the design, construction, equipment, inspection and operation of Mobile Offshore Drilling Units (MODUs) operating under the U.S. flag. Lifesaving, firefighting, crane, engineering, electrical and oil pollution equipment are all inspected prior to issuance of a Certificate of Inspection (COI) which is valid for a period of two years. Drydockings or special underwater examinations of the hull in lieu of drydockings are also required at 24-month intervals. Plan approval with regard to hull structure, stability, fire control, marine and electrical engineering, lifesaving equipment and personnel accommodations is required prior to issuance of the initial COI or when alterations affecting the safety of the unit are made.

Senator Andrews: Should these inspections be made more frequently?

Response: Mobile Offshore Drilling Units (MODUs) operating outside of the U.S. Outer Continental Shelf (OCS) are inspected and certificated every two years. It is the Coast Guard's position that inspections on MODUs operating outside the OCS should not be made more frequently. Moreover, mid-period examinations (reinspections) conducted between the tenth and fourteenth months after the month in which the Certificate of Inspection (COI) was issued, have been discontinued on MODUs outside the OCS due to Coast Guard budgetary and manpower constraints. However, it remains the owner's responsibility to ensure that his vessel maintains compliance with applicable statutes and regulations. Coast Guard inspections are made solely for the purpose of determining a vessel's "reasonable probable compliance" with published minimum safety standards prior to issuance of a COI.

Senator Andrews: In your opinion, would such an inspection have helped to avert the kind of disaster that occurred last month?

Response: A Coast Guard Marine Board of Investigation is currently investigating the OCEAN RANGER casualty. Without knowing the results of the Board concerning the cause of the casualty, it is impossible to determine whether or not an inspection could have averted the casualty. When (and if) the cause is determined, it may still not be feasible to determine whether the casualty could have been averted had an inspection been conducted.

Senator Andrews: Has the Coast Guard moved to improve its record-keeping procedures for oil drilling platforms to ensure that it performs its inspections on a more timely basis?

Response: It is the owner's responsibility to ensure that his vessel possesses a valid Certificate of Inspection and it is the owner, master or agent who must make application to the Coast Guard for vessel inspections. Therefore, the Coast Guard has not altered its record-keeping procedures for Mobile Offshore Drilling Units and oil drilling platforms with regard to inspection due dates.

Question Submitted by Senator Stennis

VESSEL DOCUMENTATION

Senator Stennis: You have announced that you are reducing the number of vessel documentation offices from 109 to 12. For example, the people along the coast of Mississippi who now handle their documentation business at Biloxi will have to go to New Orleans. I have received numerous letters concerning the great expense and inconvenience that this will entail. I note that over 1520 transactions were made at the Biloxi office last year. The savings to the Coast Guard, as a I understand it would amount to one man's salary at $26,800 a year. This seems to be a small savings for such an increase in inconvenience. Would you provide for the record your explanation and justification for such action?

Response: The Coast Guard intends to close numerous vessel documentation offices, including the Biloxi office, and to consolidate vessel documentation functions into 14 offices. Upon consolidation, transactions formerly conducted through Biloxi will be conducted through New Orleans. In 1981 there were 1454 vessel documentation transactions conducted through the Biloxi office; of these, more than 50% (761 transactions) consisted of changes of master and annual license renewals. Under the Vessel Documentation Act of 1980, effective on July 1, 1982, change of master transactions will be eliminated, and the present system of annual license renewals will be replaced by a post card validation system. In those cases where there will be a continued requirement for presentation of the vessel document, such as a change of ownership, home port, vessel name, or other similar change (approximately 39% of all 1981 transactions at Biloxi), simplified procedures and paperwork reductions will make the transactions more amenable to handling by mail or rapid delivery service. The closure of vessel documentation offices, including the Biloxi office, will result in total program savings of approximately $1 million per year.

QUESTIONS SUBMITTED BY SENATOR WEICKER

MILITARY STATUS

Senator Weiker: Do you consider that the Coast Guard still has a viable military role to play in the future and if so do you believe the Coast Guard is ready to take on this responsibility if a war broke out today?

Response: The Coast Guard today, as it has been throughout history, is an important asset in the Defense Community.

It is no secret that this nation faces a serious crisis in the mobility of its armed forces, or its ability to move military essential equipment and supplies overseas in a timely manner. This problem is one in which the Coast Guard, as a primary facilitator of commercial maritime transportation, is playing an important role.

We assist the movement of men and supplies through port facilities and oversee the critical area where the land mode of transportation merges with the sea mode. We protect the ships, cargoes and crews in the U.S. littoral region and assist the Navy with convoy protection across the major oceans. At their overseas destination, we provide the background and expertise to ensure that critical materials are off-loaded safely and on their way to the battle front.

Our day-to-day peacetime operations in areas such as enforcement of laws and treaties and port safety and security, relate directly to surveillance and interdiction, explosive loading supervision, and similar missions critical to national objectives in wartime.

It is important to note that the Coast Guard, because of its peacetime missions, already has personnel located in virtually every U.S. Strategic Port to assist immediately with safe throughput of military essential supplies. These people have local knowledge of terrain, facilities, and agencies operating within the port area.

In time of crisis of war, our normal efforts in support of maritime transportation are simply re-prioritized on M-Day, or the day mobilization begins, to emphasize support of Military and critical commercial shipping.

The Coast Guard will continue to expand critical defense related functions in time of crisis, extending its role as maritime transportation facilitator and Naval Force, to embrace those areas critical to national objectives. As a footnote, in WWII we had 80,000 personnel afloat and 50,000 personnel assigned in U.S. ports. Our wartime functions will require extensive interface with both the commercial maritime community and Department of Defense elements, overseas and in CONUS. Indeed, by virtue of our peacetime missions, which require extensive interface with the commercial sector, and the military nature of our service, we are better suited for this role than any other organization.

Is the Coast Guard ready for war today? From a personnel point of view the answer is a strong yes. Our people are trained and ready to go, as shown by our excellent results in Navy Refresher Training Exercises, and in our carrying out of difficult peacetime missions such as Prinsendam Rescue, the Cuban Exodus, and the Haitian Interdiction.

An increased effort in Readiness Planning is bringing us up to a level where local commands are in position to execute rapidly in any contingency from the deployment of the RDJTF to an all-out war. Mobilization exercises are currently being conducted to test these plans at strategic ports.

The major limiting factor to our readiness posture is the condition of our capital plant. The fleet's primary problem is age. Without major action to remedy this aging situation, in 10 years the majority (more than 150) of our cutters will be over 20 years old. Sixty cutters will be over 45 years old. In addition, most of the cutters have weapons systems that are now obsolete.

Efforts are being made, with help from the Navy, to update the weapons systems on our 378 ft cutters. The go-ahead for this program has been given. In addition, the new 270 ft. class cutters will have modern weapons systems when delivered. The Coast Guard currently has on order 41 fixed wing medium-range HU-25A Falcon jet aircraft and 90 twin turbined HH-65A Dauphine helicopters. With the arrival of these aircraft, more than two thirds of our inventory will be modern, in-production aircraft, with well-defined support systems.

In order to provide for both present and projected financial needs, a detailed "Capital Investment Plan 1982-1991" for cutters, boats, aircraft, electronics, and shore facilities has been prepared. The plan describes those procurements which will be needed to continue the performance of present missions; additional procurement needed to handle new and expanding missions; and renovations or replacements of old and inefficient facilities currently being used.

The Coast Guard is a "can do" service that continues to perform its mission with flexibility, efficiency, and cost effectiveness.

In time of crises or war calling for strategic deployment, the Coast Guard, as a naval force in being, plays a vital role in the nation's ability to move military essential supplies, people and equipment overseas. All Coast Guard wartime missions, whether overseas or CONUS, support this national objective. As a military service, we are an important part of the Defense Community.

Senator Weicker: The Administration proposes to eliminate all but a small amount of the acquisition, construction, and improvements for aids, to navigation. What specifically are these cuts and will they directly or indirectly jeopardize the safety of boaters?

Response: We are proceeding with our aids to navigation improvements according to our original plans for FY 1983; therefore the safety of boaters will not be affected.

Senator Weicker: What aids to navigation will be affected in Connecticut by these cuts?

Response: Aids to Navigation improvements in Connecticut will not be affected.

Senator Weicker: The Coast Guard has been given a wide range of responsibilities with the passage of the 1972 Federal Water Pollution Control Act and the 1978 Port and Tanker Safety Act. Is it felt that the present level of funding and the proposed level of funding are adequate in providing the personnel and facilities that are necessary for oil spill clean-up and the other responsibilities?

Response: The level of Coast Guard and commercial resources currently available appear to be adequate to permit the Coast Guard to carryout its responsibilities.

Senator Weicker: During the testimony presented before the Committee on the Environment and Public Works, Subcommittee on Environmental Pollution, in March 1981, the Administration testified that there was no need for an oil spill superfund. Is the Coast Guard reconsidering or has there been a change in position on the need for oil spill liability and compensation legislation?

Response: The mix of domestic, international, private, and public liability and compensation systems, existing now and at the time of the hearing, is a major element of the Administration's position stated before the Subcommittee. The Coast Guard supports that position; and as long as the mix is unchanged, the position is not likely to change. If the mix is altered, either domestically or internationally, the Coast Guard and the Administration will undoubtedly re-examine its views.

Senator Weicker: The Administration proposes to virtually eliminate funds for Marine Safety Acquisition, Construction, and Improvements and severely reduce funds for Marine Safety R&D. What specifically are these cuts?

Response: There are actually no reductions in AC&I funds for Marine Safety during FY 1983, although less new budget authority is identified for Marine Safety in the FY 1983 program schedule. Comparsion of the FY 1982 and 1983 requests should consider the large increase in FY 1982 funding and the distribution of obligations over both years. Planned obligations for Marine Safety for each of the two years are approximately equal.

Within the R&D request there are reductions in the Marine Safety program because of increased competition among all programs for the limited funds available. Funding for Collision, Ramming and Grounding Prevention is planned to be discontinued in FY 1983; however, crew/passenger safety R&D is estimated to increase by $150,000 in FY 1983. The portion of RDT&E Administration and multi-mission project funds allocated to the Marine Safety program comprises the remainder of the reduction from FY 1982 to FY 1983.

Senator Weicker: How will they impact on the safety of boaters?

Response: This reduction in Marine Safety R&D will, in the near term, have little or no direct impact on the general safety of boaters.

Senator Weicker: What will the impact on Connecticut be as a result of these cuts?

Response: The Research and Development Center at Avery Point, CT is unfunded for FY 1983. However, the highest priority functions of the Center will be retained but relocated to a Test and Evaluation Unit in Washington, DC.

SEARCH AND RESCUE PROGRAM

Senator Weicker: The Coast Guard proposes to reduce or close 30 Search and Rescue stations around the country. How many of these are located in Connecticut?

Response: The proposed closure or reduction of Search and Rescue units as a result of the FY1982 Budget was suspended by the Secretary of Transportation on February 26, 1982. None of the units slated for this action were in Connecticut.

Senator Weicker: How do you propose to maintain the level of safety for boaters if these reductions and closings take place?

Response: Since the proposed closures and reductions have been suspended, there will not be a reduction in the level of safety for persons in distress on these waters.

Senator Weicker: The Administration proposes to eliminate almost all of the funds for acquisition, construction and improvements for Search and Rescue. What specifically are these reductions and how will they affect the Coast Guard's ability to conduct rescue operations?

Response: There are actually no reductions in AC&I funds for Search and Rescue (SAR) during FY 1983, although less new budget authority is identified for SAR in the FY 1983 program schedule. Comparsion of the FY 1982 and 1983 requests should consider the large increase in FY 1982 funding and the distribution of obligations over both years. Planned obligations for SAR for each of the two years are approximately equal and will not adversely affect our ability to conduct rescue operations.

USER FEES

Senator Weicker: It was realized by our founding fathers nearly 200 years ago that it would be in the United States' interest for the Federal government to protect seaborne commerce and to accept the responsibility for assuring the safety of life at sea. President Washington signed into law in 1789 a bill proposed by Alexander Hamilton that incorporated light houses and other navigational aids into a Federal system. These responsibilities have become an important part of the fundamental peace time mission of the Coast Guard. How, in any way, do the proposed user fees affect the Coast Guard's responsibilities of providing safety of life at sea and protecting seaborne commerce and the Coast Guard's ability to perform the tasks necessary that are associated with these responsibilities?

Response: The proposed user fees will have no effect on the safety of life at sea, the protection of seaborne commerce, or the ability of the Coast Guard to perform the necessary tasks that are associated with these responsibilities. The only effect of the user fees is a shift in the method of financing some of the services provided by the Coast Guard. At the present time, the costs of services of the Coast Guard are paid almost exclusively by the general taxpayer. In those cases where the benefits of Coast Guard services accrue to a limited number of individuals or groups rather than the general public, the proposed user fees would have the effect of recovering some of the costs incurred by the Coast Guard from those individuals or groups who receive the benefits. Thus, these recipients of Goast Guard services would contribute to some of the costs incurred in providing services to them, as is already the case in the highway and air modes of transportation. The overall effect of the user fee proposal from a national perspective will be an enhancement in the equity and efficiency of our national economy.

Senator Weicker: The Coast Guard is attempting to levy a fee on the recipients of certain of their services. In general, these services are statutorily mandated by Congress and are not voluntarily requested by the recipient. In addition, the recipients of of these services are not the sole beneficiary. Given these circumstances, would not a more equitable recovery of the costs for these services be in charging the fees to all who benefit in one respect or another - the public?

Response: Under the proposed user fees, the Coast Guard would not be attempting to recover the costs of all statutorily mandated services. Services or benefits clearly associated with the public as a whole -- eg, law enforcement, military readiness -- are not included in the Administration's proposal. It may also be noted that the transportation of cargo is accompanied by the potential to place members of the general public at risk, a risk that would not otherwise exist. This is particularly evident in the case of cargoes that have been identified as dangerous or hazardous. In order to protect the safety of the public, Congress has statutorily mandated certain requirements on the carriers as a prerequisite in return for the right to transport goods or passengers. The costs to society associated with protecting public safety when goods are transported exist whether they are recovered from those who transport the goods or passengers, or financed from general public revenues. The proposed user fees for some of the services mandated by Congress would result in having the parties who transport the goods bear some of the costs associated with having placed the public at risk. Through user fees, some of these costs to society become a part of the carriers' cost of doing business rather than being shifted entirely to the general taxpayer, which serves to produce a more equitable result. These costs are then reflected in the price of the service, which has the overall effect of increasing the efficiency of our nation's economy. Thus, both economic efficiency and equity are enhanced by the proposed user fees, even when they recover some of the costs related to services which are statutorily mandated by Congress.

Senator Weicker: Safety regulations have been promulgated to assure the safety of the public in recreational and commercial uses of our Nation's waterways. Compliance with regulations is manditory. Would you please explain the rationale of charging user fees for the compliance of these regulations when ship and boat operators have no option but to comply.

Response: With respect to commercial users of our Nation's waterways, the rationale is the same as the response to the previous question, i.e. some of the real costs to society would be paid by the commercial user who has placed members of the the public at risk, rather than being paid entirely by the general taxpayer. The recreational user presently has the costs incurred by the Coast Guard in providing for his safety paid largely by the general taxpayer. There is a question of equity with respect to whether the general taxpayer should pay for most of the costs associated with a specific form of recreation. Although it is appropriate for the Federal government to provide for the safety of recreational users of the Nation's waterways, it is also appropriate to recover some of the costs incurred in providing this service from the beneficiaries. In this case, the benefits are restricted to a limited portion of the public rather than serving the general public interest.

USER FEES

Senator Weicker: Would you also explain the rationale of proposing user fees for the licensing of merchant vessel personnel. The necessity of obtaining a license is mandatory and is not left to the choice of the individual. One way of viewing this fee is that it is a Federal tax for the right to work in the marine industries. Another way to view the fee is that it appears to be an example of discrimination against one profession. Other passenger carrier personnel, such as railroad engineers and airline pilots, are not forced to pay for their mandatory licenses.

Response: The purpose of mandating that merchant vessel personnel obtain a license is to ensure that those who operate merchant vessels are qualified to do so. This is one aspect of the Federal responsibility to protect the general public from the risks that are associated with the transportation of goods and passengers. I am informed that the FAA does not charge for issuing pilot certificates but that commercial pilots do pay to take necessary qualifying examinations from FAA designated organization in the private sector. In the case of merchant vessel personnel, the Coast Guard not only issues the license but also conducts the necessary examination. Accordingly, it appears that the situations are quite comparable.

Senator Weicker: Another proposed user fee is to recover the cost of an icebreaking operation. In this instance, the vessel that utilizes the cleared channel is not the sole beneficiary of the Coast Guard's action. This service provides a means of getting food and heating supplies needed by consumers. Yet it is proposed that the vessel operator bear the cost of this operation. The end result of this, as with other proposed fees for commercial vessels, is that some of the burden will be passed onto the consumers and some of the smaller businesses forced out of the market. Would you please explain for the record the rationale behind placing the burden of recovering the costs of some of the Coast Guard's services on a small segment of the Nation instead of having the burden shared equally by all who benefit from the service.

Response: The applicable portion of the costs of domestic icebreaking services has been included in the proposed user fees in a manner similar to other Coast Guard services such as short range aids to navigation in all cases except during the period from January 16 through April 1 on the Great Lakes. In general, costs of these services have been considered a cost of commercial transportation for which the commercial user should be responsible rather than the general taxpayer. These more realistic transportation costs would most logically be reflected in the costs of the goods transported.

In the Great Lakes area, between the normally severe seasonal period between January 16 and April 1, an additional fee is being proposed to reflect, on a ship day basis, the use of specific domestic icebreaking services by commercial vessels.

Senator Weicker: Are the complexities involved with identifying the public and private benefits and associated costs that are derived from the various Coast Guard services known and resolved? These complexities are associated with almost any public service or situation where a service or item is used as a common good. Is it felt that these problems in sorting out private versus public benefits and their related costs have been solved so that the proposed user fees represent a realistic attempt at recovering only the private sector share of the costs incurred by the Coast Guard?

Response: The Coast Guard has conducted an analysis of its activities with the objective of separating those activities that provide broad public benefits from those in which the benefits are limited to specific individuals or groups rather than the general public. For example, the costs incurred by the Coast Guard in the process of conducting activities such as law and treaty enforcement, marine science, polar ice operations, and military readiness provide broad public benefits, and are not included in the cost base for recovery through user fees. Coast Guard expenditures related to research and development, retired pay, reserve training, bridge administration, search and rescues that involve life threatening situations, and the acquisition, construction and improvements for facilities are also excluded from cost recovery through user fees. As a result of the analysis, the amount of Coast Guard expenditures, that would be excluded from cost recovery via user fees is substantially greater the amount proposed to be recovered.

Senator Weicker: According to the March 1, 1982 schedule of user fees, I see that Search and Rescue costs of life threatening situations have been excluded. What are some examples of Search and Rescue situations that are not life threatening and their associated costs that are being propsed to be recovered? Do not all Search and Rescue situations have the potential to become life threatening situations?

Response: You are correct in observing that, when they occur, all search and rescue situations must be responded to as if they are or will become life threatening situations. This is a basic tenet of the Coast Guard's Search and Rescue Program. However, an after-the-fact administrative review of the case, when assistance has been rendered and all action is over, can assess whether the case was life threatening, had the potential to be life threatening if prompt action had not been taken, or simply was not life threatening under any potential condition. These types of cases do not occur with great frequency as far as the Coast Guard's records show, but they do occur at times. This type of evaluation, and the subsequent use of these instances to apportion some Search and Rescue costs to user groups for the subsequent fiscal year, is possible only with an indirect fee system. Any proposal to impose direct charges on an incident basis using this "administrative review" would raise serious problems of equity to individual boaters, and put Coast Guard field personnel in a role which they are neither trained or qualified to perform, namely, assess and collect fees for the services which they provide to the public.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

WILLAMETTE RIVER BRIDGE

Senator Hatfield: An "Order to Alter" was issued to Burlington Northern Railroad on September 8, 1981 to replace the Burlington Northern Bridge spanning the Willamette River in Portland, Oregon. In addition, the Bridge Modification Branch of the Coast Guard gave the proposed alteration a favorable benefit/cost ratio report on January 14, 1982. In view of the fact that you have requested no funds for alteration of bridges in FY'83, will there be adequate carryover funds to proceed with preliminary engineering and design work on this project?

Response: There will be no carryover funds available to proceed with preliminary engineering and design work on this project. The funds available are adequate only to complete ongoing projects.

Senator Hatfield: What is the schedule of the alteration of this bridge in accordance with the principles and procedures set forth in the Truman-Hobbs Act?

Response: No schedule can be prepared until there is an assurance that funds will be available. It is estimated that work could begin on the bridge within a year of funds becoming available.

QUESTION SUBMITTED BY SENATOR JACKSON

Senator Jackson: In the 1982 conference report, the conferees expressed a concern over the Coast Guard's plans to change existing regulations which would increase the size of tanker vessels allowed to operate in Puget Sound of the State of Washington. Have you held any hearings on these changes, as was directed?

- - If so, what information was obtained?

- - Has it in any way lead to a revision of your plans to implement these regulatory changes?

Response: The evaluation of the Puget Sound tanker safety studies has been completed, along with the Final Environmental Impact Statement (FEIS) and the availability of the statement published in the Federal Register of 5 March 1982. Since the preferred alternative in the FEIS proposes to continue the existing 125,000 deadweight ton size limitation, no hearings have been held. Should some other alternative be selected, the Coast Guard would comply with the Conference Committees direction and hold public hearings prior to implementing any change in existing regulations.

SUBCOMMITTEE RECESS

Senator CHILES. The subcommittee will now recess.

[Whereupon, at 11:20 a.m., Tuesday, March 30, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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